



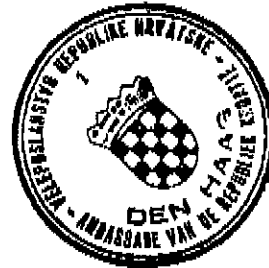
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No. 32/09-IS

The Embassy of the Republic of Croatia presents its compliments to the Secretariat of the Assembly of States Parties of the International Criminal Court and has the honour to transmit to the Secretariat, pursuant the Secretariat's note from 24 April 2009 (ICC-ASP/8/S/PA/19), the Information of the Republic of Croatia on the Plan of action for achieving universality and full implementation of the Rome Statute,

The Embassy of the Republic of Croatia avails itself of the opportunity to renew to the Secretariat of the Assembly of States Parties of the International Criminal Court assurances of its highest consideration.

The Hague, 31 August 2009



International Criminal Court
Assembly of States Parties
Secretariat
The Hague

ICC-ASP SECRETARIAT
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THE REPUBLIC OF CROATIA
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Zagreb, 17 August 2009

INTERNATIONAL CRIMINAL COURT
Assembly of States Parties
to the Rome Statute of the ICC

Information of the Republic of Croatia
on the Plan of action for achieving universality and full implementation
of the Rome Statute

(i) The Republic of Croatia already at the very beginning accepted and supported both the idea and the activities of the UN aimed at the establishment of a permanent International Criminal Court. The Republic of Croatia has been a party to the Rome Statute of the International Criminal Court since 2002. The Croatian Parliament enacted the Act on the Ratification of the Rome Statute of the International Criminal Court on 28 March 2001. (The Act on Ratification was published in The Official Gazette – International Agreements no. 5/2001). The document on ratification was deposited with the Secretary General of the United Nations on 22 May of the same year. By this act the Republic of Croatia, which was the first state of the South East Europe to ratify the Rome Statute, became one of the circle of original parties to the Statute, for which the Statute entered into force on 1 July 2002. By its early ratification of the Rome Statute, Croatia offered strong political and formal support for the soonest possible founding and beginning of the work of the Court. The Republic of Croatia did not have any constitutional obstacles to the ratification of the Rome Statute;

(ii) The Republic of Croatia has participated from the very beginning in all regional conferences aimed at encouraging ratification of the Rome Statute, providing the soonest possible beginning of the work of the Court and considering the preconditions for the implementation of the Rome Statute and models of implementation legislation. In December 2001 a regional conference entitled: "The International Criminal Court and Implementation of the Rome Statute in the Stability Pact States" was held in Zagreb, organized by the Croatian Law Centre, at which representatives of competent ministries and recognized experts in international criminal law from the states of South East Europe participated.

Deeming that one can prevent the perpetrators of the most serious criminal offences, affecting the international community as a whole, remaining unpunished, only by universal application of the Rome Statute, the Republic of Croatia has been advocating, in its diplomatic activities, for all the state parties to the Rome Statute to ensure its full implementation in their national legislations and to create adequate mechanisms by which cooperation between the state parties and the Court will be ensured.

In this sense, also, as a candidate country for EU membership, Croatia has been continuously supporting the EU's common positions and statements in connection with the International Criminal Court and the cooperation with the International Criminal Court is one of the points in the National Plan for the Accession to the European Union for 2009.

The Republic of Croatia supports the integrity, independence and efficient functioning of the ICC at the level of individual Committees and the General Assembly of the United Nations. In individual cases it co-sponsored and participated in the drafting of thematic resolutions of the UN General Assembly, which positively refer to the role of the ICC as an instrument for the promotion of international peace and security.

(iii) Special technical and other forms of assistance connected with the application of the Statute of the ICC are not necessary for the moment in the Republic of Croatia. However, the Republic of Croatia, if the need for such assistance emerges in the future, or if the International Criminal Court believes that such assistance is necessary for the Republic of Croatia, will accept every form of technical or other assistance which can contribute to the furthering of the relations between the International Criminal Court and member states. One of such forms of possible assistance could be the training of young experts in the justice system, in particular in the public prosecution service, at the Office of the Prosecutor of the International Criminal Court.

(iv) As regards the activities and planned events in the forthcoming period, the priorities of the Republic of Croatia continue to be the realization of full cooperation with the International Criminal Court and active participation in the activities of the Court.

The Republic of Croatia has been actively participating through its representatives in all activities organized by the ICC for the state parties to the Rome Statute. The Croatian delegation participated in the work of the Seventh Session of the Assembly of States Parties to the Rome Statute of the ICC in Hague (14-22 November 2008) and in New York (19-23 January 2009) when the new judges were elected. The representatives of Republic of Croatia are making preparations for participation in the work of the Eight Session of the Assembly of States Parties to the Rome Statute of the ICC and for the Review Conference.

In addition to trying to start and participate in the drafting of thematic resolutions of the UN General Assembly, which positively refer to the role of the ICC, Croatia will provide support to the debates on the work of the ICC and its role in the promotion of peace and security and in the work of other bodies of the UN.

Through its national policy, Croatia has been persistently advocating the strengthening of international criminal law in general. In the field of foreign policy, Croatia will continue to support the work and efficient functioning of the Court and persist in its full cooperation with the ICC, in line with the obligations undertaken under international law.

(v) Regarding the most important laws by which fulfilment of the obligations undertaken by the provisions of the Rome Statute has been ensured, we mention that in 2003 a special Act on the Application of the Statute of the International Criminal Court and Prosecution of Criminal Offences against International War and Humanitarian Law (The Official Gazette, no105/04) was enacted, which, *inter alia*, determines the competence for the cooperation procedure by the Republic of Croatia with the International Criminal Court and the execution of decisions of the Court, as well as the jurisdiction of Croatian courts and other bodies for criminal prosecution and conduct of criminal proceedings against the perpetrators of war crimes.

Furthermore, the Criminal Code with its amendments (Official Gazette, nos. 10/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06) is of key importance for the application of the Rome Statute, in particular the amendments enacted in 2004, as well as the Witness Protection Act enacted in 2003 (Official Gazette, no. 163/03).

By the enactment of new and amendments to the existing national criminal legislation, the Republic of Croatia provided the necessary legal framework for the efficient application of the Rome Statute and the realization of full cooperation between Croatia and the International Criminal Court, and complementary activities between the national criminal courts and the International Criminal Court. Accordingly, for example, the 2004 amendments to the Criminal Code of the RoC introduced the institution of command responsibility through the new Article 167a.; new criminal offences were introduced: crime against humanity (Art. 157.a) and recruitment of mercenaries (Art. 167.b), and necessary changes of the text were made for the criminal offence of war crimes against a civilian population (Art. 158). The 2006 amendments added a new paragraph 36 to Art. 89 which defines hate crime, and the same amendments entirely changed the legal text of the criminal offence of disclosing the identity of a protected witness (Art. 305.a).

Also, with a view to the most efficient application of the Rome Statute, on 3 October 2007 the Croatian Parliament enacted an amendment to the provision in the general part of the Criminal Code which protects the principle „*ne bis in idem*“. Article 15, Paragraph 2 of the Criminal Code so amended now reads: "Exceptionally, if a final judgement of a Contracting State of the Convention on the Implementation of the Schengen Agreement according to which punishment was served, or serving is pending, or serving is not possible pursuant to the Act on the Execution of Prison Sentences, relates to a criminal offence committed by an act on the territory of that state, criminal proceedings in the RoC cannot be instituted either by the approval of the Public Prosecutor of the RoC." This amendment will begin to be applied at the moment when the RoC becomes a full member of the EU;

(vi) In connection with bilateral agreements on cooperation between the International Criminal Court and member states, the possibility is being intensively considered in the Republic of Croatia of signing a bilateral Agreement on the

Enforcement of Sentences of the International Criminal Court as well as a bilateral Witness Relocation Agreement.

The Republic of Croatia has demonstrated its support for the normal work of the Court to be enabled also by the ratification of the Agreement on Privileges and Immunities of the International Criminal Court in 2004 (The Act on Ratification was published in the Official Gazette, International Agreements, no. 10/2004).

(vii) As has already been pointed out, the Republic of Croatia did not have any constitutional obstacles for the ratification of the Statute. In the process of meeting internal legal requirements for the ratification of the Statute it was not necessary to make any amendments to the Constitution of the Republic of Croatia. Within the meaning of Article 9, Paragraph 2 of the Constitution of the Republic of Croatia, a citizen of the Republic of Croatia may not be extradited to another state, but there is no constitutional obstacle to the surrender of Croatian citizens to the International Criminal Court. Therefore, the Republic of Croatia was able to ratify the Rome Statute without constitutional amendments, which in Article 102 distinguishes between surrender and extradition;

(viii) By the Act on the Ratification of the Rome Statute of the International Criminal Court the Ministry of Justice is designated as the central body competent for the implementation of the Rome Statute. On 19 July 2004 Croatia made a declaration according to which the communication between the Court and the Ministry of Justice - Directorate for International Cooperation, International Legal Aid and Cooperation with International Criminal Courts is carried out through diplomatic channels.

Yours sincerely,

 **DIRECTOR GENERAL**
Jordan Markotić

27.AUG.2009 15:56 +385 1 6303 004



REPUBLIKA HRVATSKA
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 Urbroj: 514-07-03-02-09-2
 Zagreb, 17. kolovoza 2009.

MEĐUNARODNI KAZNENI SUD
Skupština država stranaka
Rimskog statuta MKS-a

Informacija Republike Hrvatske
vezano uz Plan za postizanje univerzalnosti i pune
primjene Rimskog statuta

(i) Republika Hrvatska je već u samom začetku prihvatila i podržala kako ideju tako i aktivnosti UN-a koje su imale za cilj osnivanje stalnog Međunarodnog kaznenog suda. Republika Hrvatska stranka je Rimskog statuta Međunarodnog kaznenog suda od 2002. godine. Hrvatski sabor donio je Zakon o potvrđivanju Rimskog statuta Međunarodnog kaznenog suda 28. ožujka 2001. godine. (Zakon o potvrđivanju objavljen je u „Narodne novine - međunarodni ugovori“ br. 5/2001). Isprava o ratifikaciji položena je kod glavnog tajnika Ujedinjenih naroda 22. svibnja iste godine. Tim se činom Republika Hrvatska, koja je bila prva država jugoistočne Europe koja je ratificirala Rimski statut, uvrstila u krug izvornih stranaka Statuta, za koje je Statut stupio na snagu 1. srpnja 2002. Ranom ratifikacijom Rimskog statuta Hrvatska je pružila snažnu političku i formalnu podršku što skorijem osnivanju i početku rada Suda. Republika Hrvatska nije imala ustavnih prepreka za ratifikaciju Rimskog statuta;

(ii) Republika Hrvatska je od samog početka sudjelovala na svim regionalnim konferencijama kojima je bio cilj potaknuti ratifikaciju Rimskog statuta, osigurati što skoriji početak djelovanja Suda, te razmotriti pretpostavke za implementaciju Rimskog statuta i modele implementacijskog zakonodavstva. U prosincu 2001. godine u Zagrebu je održana regionalna konferencija „Međunarodni kazneni sud i implementacija Rimskog statuta u državama Pakta o stabilnosti“ u organizaciji „Hrvatskog pravnog centra“, na kojoj su sudjelovali predstavnici nadležnih ministarstava i priznati stručnjaci iz međunarodnog kaznenog prava iz država Jugoistočne Europe.

Smatrajući da se samo univerzalnom primjenom Rimskog statuta međunarodnog kaznenog prava može spriječiti da počinitelji najtežih kaznenih djela, koja se tiču međunarodne zajednice kao cjeline ostanu nekažnjeni, Republika Hrvatska se, u svojim diplomatskim aktivnostima, zalaže da sve države stranke

Rimskog statuta osiguraju njegovu punu implementaciju u svoja nacionalna zakonodavstva te stvore odgovarajuće mehanizme kojima će se osigurati suradnja država stranaka i Suda.

U tom smislu, također, kao država kandidatkinja za članstvo u EU Hrvatska kontinuirano pruža podršku zajedničkim stajalištima i izjavama EU u vezi Međunarodnog kaznenog suda te je suradnja s Međunarodnim kaznenim sudom jedna od točaka Nacionalnog plana pridruživanja Europskoj uniji za 2009. godinu.

Republika Hrvatska podržava integritet, nezavisnost i efikasno funkcioniranje MKS-a i na razini pojedinih Odbora Opće skupštine Ujedinjenih naroda, a u pojedinim je slučajevima i kosponsorirala i sudjelovala u izradi tematskih rezolucija Opće skupštine UN-a koje se pozitivno referiraju na ulogu MKS-a kao sredstva za promicanje međunarodnog mira i sigurnosti.

(iii) Posebni tehnički i drugi oblici pomoći vezani uz primjenu Statuta MKS-a Republici Hrvatskoj za sada nisu potrebni. Međutim Republika Hrvatska će, ukoliko se potreba za takvom pomoći pojavi u budućnosti ili ukoliko Međunarodni kazneni sud bude smatrao da je takva pomoć Republici Hrvatskoj potrebna, prihvatiti svaki oblik tehničke ili druge pomoći koji može pridonijeti unapređenju odnosa između Međunarodnog kaznenog suda i država članica. Jedan od takvih oblika moguće pomoći mogla bi biti izobrazba mladih stručnjaka u pravosuđu, posebno u državnom odvjetništvu, na Tužiteljstvu Međunarodnog kaznenog suda.

(iv) Glede aktivnosti i planiranih događaja u predstojećem razdoblju, prioriteti Republike Hrvatske su i dalje ostvarivati punu suradnju s Međunarodnim kaznenim sudom te aktivno sudjelovati u aktivnostima Suda.

Republika Hrvatska redovito postupa po svim zahtjevima za suradnju radi uhićenja i izručenja koje zaprima od Međunarodnog kaznenog suda, a što planira i nastaviti.

Republika Hrvatska putem svojih predstavnika aktivno sudjeluje u svim aktivnostima koje MKS organizira za države članice Rimskog statuta. Hrvatsko izaslanstvo sudjelovalo je u radu Sedme sjednice Skupštine država stranaka Rimskog statuta MKS u Den Haagu od 14. do 22. studenog 2008. godine kao i u New Yorku od 19. do 23. siječnja 2009. godine kojom prilikom su birani novi suci ICC-a. Predstavnici Republike Hrvatske spremaju se za sudjelovanje na Osmoj sjednici Skupštine država stranaka Rimskog statuta MKS kao i za sudjelovanje na Revizijskoj konferenciji Rimskog statuta MKS.

Osim što će nastojati pokrenuti i sudjelovati u izradi tematskih rezolucija OSUN-a koje se pozitivno referiraju na ulogu MKS-a, Hrvatska će dati potporu raspravama o radu MKS i njegovoj ulozi u promicanju mira i sigurnosti i u radu drugih tijela UN-a.

Hrvatska se kroz svoju nacionalnu politiku ustrajno zalaže za jačanje međunarodnog kaznenog prava općenito. Na vanjskopolitičkom planu Hrvatska će i dalje podržavati rad i efikasno funkcioniranje Suda te ustrajati na svojoj punoj suradnji s MKS-om, u skladu s preuzetim međunarodnopravnim obvezama.

(v) Od najvažnijih zakona kojima je u Republici Hrvatskoj osigurano ispunjavanje obveza preuzetih odredbama Rimskog statuta navodimo da je 2003.

godine usvojen poseban Zakon o primjeni Statuta Međunarodnog kaznenog suda i progonu kaznenih djela protiv međunarodnog ratnog i humanitarnog prava („Narodne novine“, br. 105/04), kojim se između ostalog određuje nadležnost za postupak suradnje Republike Hrvatske sa Međunarodnim kaznenim sudom i izvršenje odluka Suda, kao i nadležnost hrvatskih sudova i drugih tijela za kazneni progon i vođenje kaznenog postupka za suđenje počiniteljima ratnih zločina.

Za primjenu Rimskog statuta, nadalje, od ključne je važnosti Kazneni zakon sa svim njegovima izmjenama i dopunama („Narodne novine“, br. 10/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06), posebice onim usvojenim 2004. godine, kao i Zakon o zaštiti svjedoka usvojen 2003. godine („Narodne novine“, br. 163/03).

Usvajanjem novog i izmjenama i dopunama važećeg nacionalnog kaznenog zakonodavstva Republika Hrvatska je osigurala potreban pravni okvir za učinkovitu primjenu Rimskog statuta i ostvarivanje pune suradnje Hrvatske i Međunarodnog kaznenog suda, te komplementarno djelovanje između nacionalnog kaznenog sudovanja i Međunarodnog kaznenog suda. Tako se primjerice izmjenama 2004. godine u Kazneni zakon RH uvodi institut zapovjedne odgovornosti kroz novi članak 167.a, uvedena su nova kaznena djela: zločin protiv čovječnosti (čl. 157.a) i novačenje plaćenika (čl. 167.b), te su izvršene potrebne preinake teksta kaznenog djela ratnog zločina protiv civilnog pučanstva (čl. 158). Izmjenama iz 2006. godine u čl. 89 dodan je novi stavak 36 koji definira zločin iz mržnje, a istim izmjenama potpuno je promijenjen zakonski tekst kaznenog djela otkrivanja identiteta zaštićenog svjedoka (čl. 305.a).

Također u cilju što učinkovitije primjene Rimskog statuta, Hrvatski sabor je 03. listopada 2007. godine usvojio izmjenu i dopunu odredbe u općem dijelu Kaznenog zakona kojom se štiti načelo „*ne bis in idem*“. Tako izmijenjeni i dopunjeni članak 15. st. 2 KZ-a sada glasi: „Iznimno, ako se pravomoćna presuda države ugovornice Konvencije o provedbi Sporazuma iz Schengena prema kojoj je kazna izdržana, ili je izdržavanje u tijeku, ili izdržavanje nije moguće prema Zakonu o izdržavanju kazne zatvora, odnosi na kazneno djelo počinjeno dijelom na području te države, kazneni postupak u RH ne može biti pokrenut niti uz odobrenje Državnog odvjetnika RH.“ Ova izmjena, počest će se primjenjivati u trenutku kad RH stekne punopravno članstvo u EU;

(vi) Vezano za dvostrane sporazume o suradnji Međunarodnog kaznenog suda i država članica, u Republici Hrvatskoj se intenzivno razmatra mogućnost potpisivanja dvostranog ugovora o izvršavanju kazne zatvora određene od strane Međunarodnog kaznenog suda (Agreement on the Enforcement of Sentence of the International Criminal Court) te su u tijeku pripreme za procesuiranje dvostranog ugovora o relokaciji svjedoka (Relocation Agreement).

Svoju potporu da se omogući normalan rad Suda Republika Hrvatska je iskazala i ratifikacijom Sporazuma o povlasticama i imunitetima Međunarodnog kaznenog suda u 2004. godini (Zakon o potvrđivanju objavljen u „Narodne novine – Međunarodni ugovori“, br. 10/2004).


(vii) Kao što je već istaknuto, Republika Hrvatska nije imala ustavnih prepreka za ratifikaciju Statuta. U postupku ispunjenja unutarnjih pravnih uvjeta za ratifikaciju Statuta nije bilo potrebno izvršiti nikakvu izmjenu ili dopunu Ustava Republike Hrvatske. U smislu članka 9. stavak 2. Ustava Republike Hrvatske državljanin Republike Hrvatske ne može biti izručen drugoj državi, ali ne postoji ustavna prepreka za predaju hrvatskih državljana Međunarodnom kaznenom sudu.

Stoga je Republika Hrvatska mogla i bez ustavnih promjena ratificirati Rimski statut koji u članku 102. pravi razliku između predaje i izručenja;

(viii) Zakonom o potvrđivanju Rimskog statuta Međunarodnog kaznenog suda Ministarstvo pravosuđa je određeno kao središnje tijelo nadležno za provedbu Rimskog statuta. Hrvatska je 19. srpnja 2004. godine dala izjavu prema kojoj se komunikacija između Suda i Ministarstva pravosuđa (Uprave za međunarodnu suradnju, međunarodnu pravnu pomoć i suradnju s međunarodnim kaznenim sudovima) odvija diplomatskim putem.

S poštovanjem,

RAVNATELJ


Gordan Markotić

Annex IV

Implementing legislation questionnaire for States Parties

1. Has your government adopted any national legislation implementing the Rome Statute?

- The Government of Republic of Croatia adopted new national legislation implementing the Rome Statute.
- The Croatian Parliament enacted the **Act on the Ratification of the Rome Statute of the International Criminal Court on 28 March 2001** (The Act on Ratification was published in The Official Gazette – International Agreements no. 5/2001)
- in 2003 a special **Act on the Application of the Statute of the International Criminal Court and Prosecution of Criminal Offences against International War and Humanitarian Law** (The Official Gazette, no105/04) was enacted
- As a key importance for the application of the Rome Statute, Republic of Croatia made amendments to the Criminal Code

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

- Government of Republic of Croatia drafted special implementing legislation but also made some amendments to the Criminal Code

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

- Entire Rome Statute is incorporated in the Act on the Ratification of the Rome Statute of the International Criminal Court
- Act on the Application of the Statute of the International Criminal Court and Prosecution of Criminal Offences against International War and Humanitarian Law includes reference to the Statute and to the Criminal Code

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

- 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?

- The implementing legislation designate a channel of communication with the ICC
- By the Act on the Ratification of the Rome Statute of the International Criminal Court the Ministry of Justice is designated as the central body competent for the implementation of the Rome Statute
- The Act on the Application of the Statute of the International Criminal Court and Prosecution of Criminal Offences against International War and Humanitarian Law determines, *inter alia*, the competence for the cooperation procedure by the Republic of Croatia with the International Criminal Court and the execution of decisions of the Court