

SUBJECT: the questionnaire on the measures undertaken in respect of implementing legislation of the Rome Statute of the International Criminal Court

Estonia has adopted national legislation in order to implement the Rome Statute of the International Criminal Court. In respect of the questionnaire issued by the Secretariat of the Assembly of States Parties to the Rome Statute on this subject, Estonia is pleased to provide the following information:

1. 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 Statute has become a part of Estonian legal order on 1 July 2002 during the reform of Estonian substantive and procedural penal law. The provisions intended to implement the Statute have been incorporated into the Penal Code (in force since 1 September 2002) and the Code of Criminal Procedure (in force since 1 July 2004).

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

The substantive crimes are incorporated into the Estonian Penal Code without reference to the Statute, e.g. crimes against humanity – section 89, genocide – section 90, aggression – section 91.

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

The modes of cooperation have been provided for in the Code of Criminal Procedure, e.g. principle of cooperation – section 433, extradition – section 439, surrender of persons – section 491. However, if a rule of national law should be in contradictory to a provision of an international commitment, the latter prevails (section 433 (2) of the Code of Criminal Procedure).

A request for assistance received from a foreign state may be complied with pursuant to procedural provisions different from the provisions of the Code of Criminal Procedure unless this is not a contrary to the principles of Estonian law.

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

According to section 435 (1) of the Code of Criminal Procedure, the Ministry of Justice is the central authority in the matters of international cooperation concerning penal law.