



Strasbourg, 17 September 2003

3rd Consult/ICC (2003) 08
English only

**THE IMPLICATIONS FOR COUNCIL OF
EUROPE MEMBER STATES OF THE
RATIFICATION OF THE
ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**

**LES IMPLICATIONS POUR LES ETATS
MEMBRES DU CONSEIL DE L'EUROPE
DE LA RATIFICATION DU STATUT DE
ROME DE LA COUR PENALE
INTERNATIONALE**

PROGRESS REPORT BY CROATIA

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**THIRD CONSULTATION ON THE IMPLICATIONS FOR
COUNCIL OF EUROPE MEMBER STATES OF THE
RATIFICATION OF THE ROME STATUTE OF THE
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**PROGRESS REPORT
REPUBLIC OF CROATIA**

The Republic of Croatia signed the Statute of the International Criminal Court, the Republic of Croatia accepted to be bound by its provisions, subject to the obligation of ratification in accordance with Article 125. of the Statute. The Republic of Croatia obtained the full status of Statute Party by its deposition of the ratification instruments.

The Government of Croatia, in collaboration with prominent criminal law experts, finished a process of harmonizing a number of substantive and procedural provisions of the Criminal Code with the Statute, including those dealing with penalties. Furthermore, a Bill of the Implementation of the ICC Statute and the Prosecution of Crimes Against International Law of War and Humanitarian Law was submitted to the Croatian Parliament last June. The Bill, still in parliamentary procedure, sets the organizational and procedural prerequisites for the implementation of the obligations emanating from the Statute, while also addressing issues such as waiver of immunity, command responsibility and universal jurisdiction. It is worth mentioning that the organizational solutions presented in the Bill, reflect to a great extent the practical experience of the Croatian judiciary in investigating and prosecuting of war crimes. By strengthening the institutional and professional capacity of the legal system to respond effectively to war crimes, it directly contributes to the goals and values of the Rome Statute and, consistent with the principle of complementarity, virtually excludes the possibility of triggering the ICC's jurisdiction.

Croatia joins her efforts in dispelling perceptions that the Court is vulnerable to politicization. It is also important not to lose sight of the fact that the provisions of the Rome Statute reflect a very high degree of consensus within the international community, further strengthened by the rising number of ratifications. The negotiation process took into account different perspectives and consequently resulted in a number of carefully designed "checks and balances" aimed at preventing politically motivated prosecutions. On the other hand, professionalism and competence of the judges and the Prosecutor, combined with an open and transparent prosecutorial policy, offer further assurances that the Court will be able to fight off frivolous prosecutions.

The Republic of Croatia harmonized criminal legislation with the Rome statute. The existing Croatian Penal Code includes following criminal offenses.

Art. 156. Genocide,
Art. 157. War of Aggression,
Art. 158. War Crimes Against the Civilian Population,
Art. 388. Responsibility for a criminal Offense committed on Superior Orders

In the Law on Amendments to the Criminal Code is prescribed new criminal offenses in

art. 167.a. - Civilian Superior Responsibility – according art. 28 Rome Statute
art. 157. a. – Crimes Against Humanity - according art. 7. Rome Statute
art. 158. – War Crimes Against the Civilian Population – according art. 8. Rome Statute

Command Responsibility

Article 167a

(1) A military commander or another person acting in effect as a military commander or as a civilian in superior command or any other person who in a civil organization has the effective power of command or supervision shall be punished for the criminal offenses referred to in Articles 156 through 167 of this Code if he knew that his subordinates had committed these criminal offenses or were about to commit them and failed to take all reasonable measures to prevent them. The application of this Article excludes the application of the provision contained in paragraph 3, Article 25 of this Code.

(2) The persons referred to in paragraph 1 of this Article who had to know that their subordinates were about to commit one or more criminal offenses referred to in Articles 156 through 167 of this Code and failed to exercise the necessary supervision and to take all reasonable measures to prevent the perpetration of these criminal offenses shall be punished by imprisonment for one to eight years.

(3) The persons referred to in paragraph 1 of this Article who do not refer the matter to competent authorities for investigation and prosecution against the perpetrators shall be punished by imprisonment from one to five years.

Crimes Against Humanity

Article 157a

Whoever violates the rules of international law within an extensive or systematic attack against the civilian population and, with knowledge of such an attack, orders the killing of another person, orders the infliction of conditions of life so as to bring about the physical destruction in whole or in part of some civilian population which could lead to its complete extermination, orders trafficking in human beings, in particular of women and children, or the enslavement of a person in any other way so that some or all of the powers originating in property rights are exercised over such person, orders the forceful displacement of persons from areas where they lawfully reside and through expulsion or other measures of coercion, orders that a person deprived of liberty or under supervision be tortured by intentionally inflicting severe bodily or mental harm or suffering, orders that a person be raped or subjected to some other violent sexual act or that a woman who has been impregnated as a result of such violent act be intentionally kept in detention so as to change the ethnic composition of some population, orders the persecution of a person by depriving him or her of the fundamental rights because this person belongs to a particular group or community, orders the arrest, detention or kidnapping of some persons in the name of and with the permission, support or approval of a state or political organization and subsequently does not admit that these persons have been deprived of their liberty or withholds information about the fate of such persons or the place where they are kept, or orders within an institutionalized regime

of systematic oppression and domination of one racial group over another racial group or groups that an inhumane act described in this Article be committed or an act similar to any of these offenses so as to maintain such a regime (the crime of apartheid), or whoever commits any of the foregoing offenses shall be punished by imprisonment for not less than five years or by a life sentence.

War Crimes Against the Civilian Population

Article 158

(1) Whoever violates the rules of international law in time of war, armed conflict or occupation and orders an attack against the civilian population, settlements, individual civilians or those hors de combat resulting in death, severe bodily harm or serious damage to people's health, orders an indiscriminate attack harming the civilian population, orders the killing, torturing or inhuman treatment of civilians, orders civilians to be subjected to biological, medical or other scientific experiments, their tissues or organs taken for transplantation, orders civilians to be subjected to great suffering impairing the integrity of their bodies or health, or orders their resettlement, displacement or forceful loss of ethnic identity or conversion to another religion, orders rape, sexual oppression, forced prostitution, pregnancy or sterilization or other sexual abuse, orders measures of intimidation or terror, hostage taking, collective punishment, unlawful deportations to concentration camps or illegal detention, deprives people of the rights to a just and unbiased trial, forces them to serve in hostile armed forces or in the information services or administration of a hostile power, subjects them to forced labor, starvation, confiscates property or orders that the population's property be plundered or illegally and wantonly destroyed or its large-scale appropriation where there is no justification by military needs, or imposes illegal and disproportionately large contributions and requisitions, or decreases the value of the domestic currency or unlawfully issues it, or orders an attack against persons, equipment, materials, units or vehicles involved in humanitarian aid or a peace mission pursuant to the Charter of the United Nations, or orders that the rights and actions of the citizens of a hostile country be prohibited, suspended or pronounced unlawful in court proceedings, or injures personal dignity or orders civilians and other protected persons to be used to shield certain places, areas or military forces from military operations, or orders the recruitment of children under fifteen years of age for the national armed forces or their active participation in hostilities, or whoever commits any of the foregoing acts shall be punished by imprisonment for not less than five years or by long-term imprisonment.

(2) The same punishment as referred to in paragraph 1 of this Article shall be imposed on whoever violates the rules of international law in time of war, armed conflict or occupation by ordering an attack against objects protected by international law, against works or powerful installations such as dams, dykes and nuclear power plants, indiscriminate attacks against civilian objects protected by international law, against undefended places and demilitarized zones or orders an attack which results in an extensive and long-lasting damage to the environment and may impair the population's health or survival, or whoever commits any of the foregoing acts.

(3) Whoever, as an occupying power, violates the rules of international law, in time of war, armed conflict or occupation, orders or carries out the resettlement of parts of the civilian population of the occupying power to an occupied territory shall be punished by imprisonment for not less than five years.

Destruction of Cultural Objects or of Facilities Containing Cultural Objects

Article 167

(1) Whoever, in violation of the rules of international law, in time of war or - armed conflict, destroys cultural objects or facilities dedicated to science, art, education or those established for humanitarian purposes shall be punished by imprisonment for not less than one year.

(2) If, by the criminal offense referred to in paragraph 1 of this Article, a clearly recognizable facility is destroyed which belongs to the cultural and spiritual heritage of the people and which is under the special protection of international law, the perpetrator shall be punished by imprisonment from five to fifteen years.

The Bill of the Implementation of the Statute of the International Criminal Court and the Prosecution of Crimes against International Law of War and Humanitarian Law prescribes treatment (procedure articles) of country's bodies in collaboration with ICC.

Bill on the Implementation of the Statute of the International Criminal Court and the Prosecution of Crimes against International Law of War and Humanitarian Law

GENERAL PROVISIONS

Area of application Article 1

(1) This Law shall regulate the implementation of the Statute of the International Criminal Court (hereinafter: the Statute), which the Republic of Croatia has ratified by adopting the Law on the Ratification of the Rome Statute of the International Court (Official Gazette – International Treaties, No. 5/2001), the co-operation of the Republic of Croatia with the International Criminal Court, and the specific prosecution of crimes against international law of war and humanitarian law and other crimes within the jurisdiction of international criminal courts (hereinafter: Crimes), as well as the prosecution of crimes against international justice (Article ... of the Criminal Law).

(2) This Law shall also be referred to as the Law on Crimes Against International Law.

Definition of terms
Article 2

In this Law the following terms shall have the following meanings:

The International Criminal Court: the Court established under the Statute of the International Criminal Court adopted in Rome on 17 July 1998,
The Statute: the Statute of the International Criminal Court which the Republic of Croatia has ratified by adopting the Law on the Ratification of the Rome Statute of the International Court (Official Gazette – International Treaties, No. 5/2001),
Crime: crimes under Article 5 of the Statute, any crimes against international law of war and humanitarian law under the Croatian law (Articles of the Criminal Law – *amendments thereto pending*), and other crimes within the jurisdiction of international criminal courts, including crimes against international justice,
The Prosecutor: The Office of the Prosecutor of the International Criminal Court (Article 42 of the Statute).

The authority competent to receive requests for co-operation
with the International Criminal Court
Article 3

(1) Unless otherwise provided in this Law, the authority competent to receive requests for co-operation and to ensure compliance with them shall be the Government of the Republic of Croatia.

(2) If in a specific area the Constitution or a law provides for an exclusive competence of a state authority, or if it is obvious that another state authority will be more expeditious in dealing with a specific request for co-operation, such a request or a decision of the International Criminal Court shall be forwarded by the Government of the Republic of Croatia to that authority for further procedure.

(3) The competent state authorities shall deal with matters concerning co-operation and implementation of the decisions of the International Criminal Court expeditiously and without delay and report thereon to the Government of the Republic of Croatia.

(4) Through an ordinance the Government of the Republic of Croatia can establish bodies in charge of co-operation and execution of requests within their competence, or it can take certain actions to this effect through the Public Attorney's Office.

(5) The actual and local jurisdiction of courts and other state authorities in matters concerning co-operation with and requests of the International Criminal Court shall be defined according to the rules applicable in determining jurisdiction in criminal proceedings or in another procedure dealing with a case in question, unless otherwise provided in this Law.

Representation before the International Criminal Court
Article 4

In cases where the Republic of Croatia acts before the International Criminal Court to protect its rights and interests or the interests of its citizens, the Republic of Croatia, subject to a decision by the Government of the Republic of Croatia, shall be

represented by the Public Attorney General or another adequately qualified and experienced person.

Communication with the International Criminal Court Article 5

(1) unless otherwise decided by Government of the Republic of Croatia, the state authorities shall communicate with the International Criminal Court through the Government of the Republic of Croatia in the Croatian language or in one of the official languages of the International Criminal Court.

(2) Communication between the Government of the Republic of Croatia and the International Criminal Court shall be conducted through diplomatic channels. In case of emergency or for a justified reason such communication can also be conducted through direct contacts.

(3) If not in contravention of the law and the purpose and intent of the foregoing paragraphs 1 and 2, communication in specific matters can also be conducted via Interpol, with the Government of the Republic of Croatia to be immediately notified on such cases.

(4) The Government of the Republic of Croatia can in any case require that such communication be conducted as envisaged in paragraph 2 of this article.

Application of national legislation Article 6

(1) The state authorities competent for co-operation and execution of the requests of the International Criminal Court shall act in compliance with the Croatian law.

(2) In cases where the Croatian law may not be applicable to an action to be taken, appropriate Croatian regulations applicable to similar cases handled before the Croatian state authorities shall apply.

(3) The Law and other regulations of the Republic of Croatia applicable in co-operation with the International Criminal Court shall be construed and applied in a way corresponding to the purpose and intent of the Statute of the International Criminal Court.

(4) Legal regulations on immunities and privileges shall not apply in procedures involving the crimes referred to in Article 2 of this Law.

Information relevant for investigation and prosecution of crimes and information of historic relevance

Article 7

(1) Legal and natural persons are obligated to supply to the competent state authorities or institutions any information, documents, films or objects which may be important in investigating and prosecuting the crimes and in establishing the historic truth about a war and committed war crimes.

(2) In default of a law providing for the obligation specified in the foregoing paragraph, the Government of the Republic of Croatia can designate the competent state authority or institution by an act of ordinance.

Protection of witnesses, victims and officials engaged in criminal prosecution

Article 8

(1) In the investigation and prosecution of crimes and in the co-operation with the International Criminal Court the highest standards of the protection of and respect for the dignity of witnesses, victims and their families shall be applied under a special law.

(2) Special legal protection, as required, shall be enjoyed by judges, public attorneys and other persons involved in the prosecution of crimes and the co-operation with the International Criminal Court.

Urgency

Article 9

In the prosecution of crimes and the co-operation with the International Criminal Court, courts and other state authorities shall act urgently, but not to the detriment of legality and regularity.

II. PROSECUTION OF CRIMES IN THE REPUBLIC OF CROATIA

Jurisdiction of the Croatian courts and other criminal investigation authorities

Article 10

(1) Crimes committed in the Republic of Croatia, crimes committed by the Croatian nationals and the crimes the victims of which are the Croatian nationals shall be prosecuted in the Republic of Croatia and brought before a competent Croatian court.

(2) In addition to the crimes specified in the foregoing paragraph, other crimes shall also be prosecuted in the Republic of Croatia, regardless of the place where they were committed or the nationality of the suspect, if the suspect is arrested in or extradited to the Republic of Croatia and the criminal procedure has not been conducted before the International Criminal Court or before a court of another state, or if the respective suspect for one reason or another cannot be tried before the International Criminal Court or a court of the state where the crime was committed, a court of the state of the suspect's residence or another competent court from which a fair trial can be expected.

(3) By way of derogation from paragraph 1 of this article, no crime shall be prosecuted in the Republic of Croatia if already prosecuted by the International Criminal Court, and such a case shall be referred to the International Criminal Court.

Application of criminal procedure regulations

Article 11

Unless otherwise provided in this Law, applicable in the prosecution of crimes shall be the provisions of the Criminal Procedure Act and other relevant criminal procedure regulations.

Competent national courts

Article 12

(1) The national courts competent for the prosecution of crimes shall be the County Courts of Osijek, Rijeka, Split and Zagreb.

(2) In addition to the courts specified in the foregoing paragraph, competence is also vested in courts as specified in the general regulations on criminal procedure competence.

(3) A trial shall be conducted before a competent court where the public attorney has instituted criminal proceedings.

(4) The responsible public attorney can institute criminal proceedings at a court other than the court which would be competent under the general regulations on criminal procedure competence, if so approved by the Public Attorney General.
(Alternative: delete)

Special provisions on the internal organisation of courts

Article 13

(1) Investigation of crimes under Article 2 of this Law at the County Courts of Osijek, Rijeka, Split and Zagreb shall be conducted by special investigation departments composed of judges particularly experienced and skilful in investigating very serious and complex crimes and of graduated crime experts (Article 191, paragraph 4 of the Criminal Procedure Act). If permitted by the number and complexity of handled cases and if decided by the presiding judge, the judges engaged in a special investigation department may also handle other investigation procedures.

(2) The county court council acting under Article 2 of this Law shall be composed of three judges from among judges particularly experienced in handling highly complex cases.

(3) The judges referred to in the foregoing paragraphs 1 and 2 shall be appointed by the presiding judge for a term of office of 4 years to serve within the special investigation department by conducting trials against the accused. The crime experts referred to in paragraph 1 of this article shall be appointed for a term of office of 4 years by the presiding judge at the proposal of the head of the special investigation department.

(4) *ALTERNATIVE: The presiding judge may decide that the duties of the special investigation departments and the county court councils be performed by the investigation department and the judges referred to in Article 25 of the Law on Combating Corruption and Organised Crime.*

(5) In cases where a national competent court lacks a sufficient number of judges who meet the criteria of paragraph 2 of this article, the president of the Supreme Court of the Republic of Croatia may for the needs of the case in question designate a judge from another county court.

Jurisdiction of the Public Attorney

Article 14

(1) The Public Attorney General shall appoint one of his deputies as Public Attorney for War Crimes for a term of 4 years to administer the prosecution of crimes

and to coordinate and streamline the work of responsible public attorneys and the work of the War Crime Department with the Ministry of the Interior

(2) The responsibility to act in a criminal case lies with the public attorney who, pursuant to the general regulations, acts before a county court of national jurisdiction, unless the Public Attorney General or the Public Attorney for War Crimes referred to in paragraph 1 of this article designates another public attorney to act in this capacity.

(3) At his own discretion the Public Attorney for War Crimes can in case of any crime under Article 2 of this Law take any necessary action being normally taken by the public attorney pursuant to the Criminal Procedure Act.

(4) The responsible public attorney shall direct the work of the police authorities on cases which under this Law are within his competence.

Criminal police organisation Article 15

(1) At the Ministry of the Interior a special department shall be formed for criminal investigation and co-operation with the International Criminal Court in matters within the police responsibility (War Crime Department). The Department shall be composed of police officers experienced in the investigation of serious crimes.

(2) The War Crime Department officers shall conduct field investigation and take other necessary action, as well as coordinate and direct the work of other police authorities engaged in the investigation and detention of crimes suspects or in the co-operation with the International Criminal Court.

Special provisions on the prosecution of crimes Article 16

In the investigation and prosecution of the crimes under Article 2 of this Law, appropriately applied shall be the special provisions on detention or custody and the duration thereof, examination of the participants in a crime as witnesses, taking a statement or testimony from a witness and other actions being taken by the responsible public attorney in cases involving organised crime.

III. NOTIFICATION TO THE PROSECUTOR AND ACTION TO BE TAKEN UPON THE PROSECUTOR'S NOTIFICATION

Notification to the Prosecutor Article 17

(1) State authorities, legal and natural persons with knowledge of a crime within the competence of the International Criminal Court, irrespective of the place where it was committed and other than a crime already prosecuted in the Republic of Croatia or before the International Criminal Court or a competent court of another state, shall notify thereof the responsible public attorney.

(2) The responsible public attorney, provided that requirements under the Criminal Procedure Act are met, shall take necessary steps and institute a prosecution procedure.

(3) If for actual or legal reasons such criminal prosecution cannot be initiated in the Republic of Croatia, the Public Attorney General shall notify thereof the Government of the Republic of Croatia which in turn, in accordance with Article 14 of the Statute, may refer the case to the Prosecutor.

Notification by the Prosecutor Article 18

(1) When the Prosecutor notifies the Republic of Croatia that there would be a reasonable basis to commence an investigation for a crime defined in Article 5 of the Statute and that the competent Croatian authorities may exercise jurisdiction over the crime concerned, the Government of the Republic of Croatia shall notify thereon the Public Attorney General.

(2) If the notification referred to in the foregoing paragraph is confidential, its content shall be treated as an official secret by any state authorities or persons to which or to whom this content has been brought to notice.

Action to be taken by the public attorney and other competent authorities Article 19

(1) Upon receipt of the notification referred to in Article 18, paragraph 1 of this Law, the Public Attorney General and other competent state authorities, unless a legal procedure to this effect is already under way in the Republic of Croatia, shall take urgent action to determine if there is a reasonable basis to proceed under the notification, conduct required investigation and report without delay to the Government of the Republic of Croatia on the action thus taken.

(2) Within one month following the receipt of the notification the Government of the Republic of Croatia shall notify the Prosecutor if the requested criminal prosecution is under way in the Republic of Croatia.

(3) If the criminal prosecution has been commenced in the Republic of Croatia, the Government of the Republic of Croatia may request the International Criminal Court to have the case concerned referred to it.

(4) If the Pre-Trial Chamber of the International Criminal Court, in spite of the readiness to conduct criminal proceedings in the Republic of Croatia, authorises the Prosecutor to commence investigation, the Republic of Croatia may lodge a complaint in accordance with the Statute and the Rules of Procedure and Evidence.

(5) The Public Attorney General shall regularly report to the Government of the Republic of Croatia on actions taken and procedures conducted and the Government shall pass on such information to the Prosecutor, if required or requested.

IV. LEGAL CONSEQUENCES OF PROCEEDINGS BEFORE THE INTERNATIONAL CRIMINAL COURT

Ne bis in idem

Article 20

(1) A person indicted whose guilt has been decided on by the International Criminal Court cannot be tried for the same crime in the Republic of Croatia, nor can a previous national adjudication in the same matter be enforced.

(2) At the request of the Public Attorney or of the person indicted who has been tried by the International Criminal Court, the adjudication of a court in the Republic of Croatia concerning the same crime shall be altered through appropriate implementation of the provisions of the Law on Criminal Procedure related to the alteration of adjudication in accordance with the rules on the renewal of proceedings.

No parallel trial

Article 21

(1) No criminal proceedings may be conducted against the same indicted person for the same crime simultaneously in the Republic of Croatia and before the International Criminal Court.

(2) When proceedings against the person indicted are under way before a court in Croatia, and the International Criminal Court begins criminal proceedings against the same person for the same crime, the proceedings before the court in Croatia will be suspended upon the surrender of the person indicted to the International Criminal Court or when this person otherwise appears before the ICC.

(3) When the International Criminal Tribunal begins with the proceedings, no proceedings shall be instituted in the Republic of Croatia against the same indicted person for the same crime.

(4) If the adjudication of a court in the Republic of Croatia has become final, it shall not be enforced, and if the enforcement is under way, it shall be suspended upon the surrender of the person indicted to the International Criminal Court.

(5) During the suspension of the proceedings before a court in the Republic of Croatia or the suspension of the enforcement no statute of limitations nor deadlines for carrying out particular process activities shall apply.

Resumption of proceedings in the Republic of Croatia

Article 22

(1) The criminal proceedings conducted before a court in the Republic of Croatia and suspended to enable the proceedings before the International Criminal Court may be resumed before the competent court of the Republic of Croatia if the International Criminal Court has not decided on the guilt of the person indicted for one or more crimes for which criminal proceedings were conducted in the Republic of Croatia. In this case a final adjudication of the court in the Republic of Croatia may be enforced, or the suspended enforcement of the adjudication continued, and the criminal prosecution which may have been prevented by the proceedings conducted before the International Criminal Court may be instituted.

(2) When the judgement of the International Criminal Court only includes some of the crimes for which there is a final adjudication of a court in the Republic of Croatia, the court of the Republic of Croatia shall alter its sentence, implementing in an appropriate manner the provisions of the Law on Criminal Procedure related to the alteration of adjudication in accordance with the rules on the renewal of proceedings.

V. COOPERATION WITH INTERNATIONAL CRIMINAL COURT

Principles of cooperation

Article 23

(1) The Republic of Croatia shall fully cooperate with the International Criminal Court in accordance with Article 93 of the Statute in investigations and criminal prosecution of crimes within its competence, proceeding in the manner prescribed in Art. 3 hereof.

(2) The cooperation request by the International Criminal Court shall be confidential and its content may be disclosed when this is necessary for its fulfilment, or for other particularly important reasons.

(3) All government bodies of the Republic of Croatia shall act in good faith in the process of cooperation, guided by the goals from the Statute and the purpose of each individual activity carried out.

(4) The competent government bodies shall also undertake the activities which the International Criminal Court has not expressly requested, if it appears that they are necessary in order to find the perpetrator and collect evidence for a trial before the International Criminal Court.

Attendance of the representatives of the International Criminal Court

Art. 24

Representatives of the International Criminal Tribunal may at their request be allowed to attend the activities undertaken in compliance with the request for cooperation. In this case they shall be enabled to ask questions, make proposals and, if this will not affect the activity, to shoot and tape the procedure.

Postponed fulfilment of cooperation request

Article 25

(1) The Government of the Republic of Croatia may postpone the fulfilment of the cooperation request on account of the criminal proceedings conducted in the Republic of Croatia, or on account of the objection raised concerning the

permissibility of instituting or conducting the proceedings before the International Criminal Court (Articles 94 and 95 of the Statute).

(2) If the cooperation request needs to be fulfilled by a court in Croatia, its fulfilment shall be postponed by the court at the request of the Attorney General of the Republic of Croatia.

Performing activities in the territory of the Republic of Croatia

Article 26

The International Criminal Court and the Prosecutor may perform individual activities in the territory of the Republic of Croatia with the prior consent of the Government of the Republic of Croatia.

In performing the activities mentioned in paragraph 1 above, the International Criminal Court shall not use coercion nor restrict the constitutional rights of citizens.

Consultations

Article 27

When there are real or legal reasons, particularly those mentioned in Article 97 of the Statute, the competent government body shall promptly inform the Government of the Republic of Croatia which shall consult the ICC concerning the way to solve the problem.

VI. APPREHENSION AND SURRENDER

Surrender request

Article 28

(1) The apprehension and surrender of the person indicted shall be based on a request by the ICC and carried out in accordance with the Statute and this Law.

(2) The substantiated request for the surrender of the person indicted shall be submitted by the International Criminal Court to the Government of the Republic of Croatia. With it, the ICC shall enclose the information required to identify the person indicted.

(3) In the surrender procedure the appropriate provisions of the Law on Criminal Procedure shall be applied analogously.

Mandatory defence

Article 29

During the whole surrender procedure the person indicted must have a defence counsel.

Apprehension

Article 30

(1) Acting on the request of the International Criminal Court the police shall apprehend the person indicted whose apprehension and surrender or temporary apprehension has been requested by the International Criminal Court, and shall promptly bring the person before an investigative judge of the court authorised to conduct the surrender procedure. If the person indicted is on the run, the police shall conduct the necessary measures at their disposal to find and apprehend the person in question.

(2) If the person indicted is on the run, the investigative judge may, in addition to other measures necessary to find and apprehend the person in question, at the proposal of the public attorney order the measures from Article 180 paragraph 1 subparagraphs 1-4 of the Law on Criminal Procedure.

(3) The Government of the Republic of Croatia shall promptly forward to the police the arrest warrant of the International Criminal Court.

Procedure before investigative judge

Article 31

(1) The competent investigative judge shall interrogate the person indicted about the matter, and if the judge establishes that this is the person whose apprehension, temporary apprehension or surrender has been requested by the International Criminal Court, the judge shall order that this person be held in custody.

(2) The custody ordered by the investigative judge may have the maximum duration as the custody during the investigation pursuant to Article 16 hereof.

(3) During the interrogation, the investigative judge shall establish whether the person indicted wants to surrender to the International criminal Court without the surrender procedure. In such a case a special document shall be drawn up in which the person in question shall confirm that he/she wants to surrender to the International Criminal Court without the surrender procedure, and that he/she waives all remedies which can be used in this procedure. In such a case the investigative

judge shall decide on the need for custody in accordance with the provisions of the Law on Criminal Procedure.

(4) Exceptionally, the person indicted may make a statement before the public attorney in charge prior to the apprehension, and a document mentioned in paragraph 3 above shall be drawn up in such a case, to the effect that he/she wants to voluntarily surrender to the International Criminal Court without being subjected to the surrender procedure. In this case the public attorney may request the investigative judge to order the person indicted to be put in custody in accordance with the provisions of the Law on Criminal Procedure.

(5) The statement from paragraphs 3 and 4 above shall be irrevocable.

Procedure before court

Article 32

(1) The district courts in Osijek, Rijeka, Split and Zagreb shall be authorised to decide on the surrender of the person indicted to the International Criminal Court.

(2) The chamber mentioned in Article 13 para 2 hereof shall decide on the surrender.

Interrogation

Article 33

In the procedure conducted to decide on the request of the International Criminal Court for the surrender of the person indicted, the court shall inform the person indicted about the request and the charges against him/her and shall interrogate him/her about the crimes he/she is being charged with and about other circumstances which are important for deciding on the request.

Voluntary surrender

(1) Throughout the procedure, the person indicted may make a statement on the record that he/she wants to voluntarily surrender to the International Criminal Court and that he/she waives all legal remedies. Such a statement shall be irrevocable.

(2) In a case from paragraph 1 above the court shall issue a decision to suspend the surrender procedure, put the person indicted in custody and inform the competent department of the Ministry of the Interior accordingly in order to carry out the surrender.

Deciding on surrender request

Article 34

(1) The court shall issue a decision granting the surrender request if it finds that the request is for the person against whom the surrender procedure is conducted and that the crime in question is one for which the International Criminal Court is competent in accordance with its Statute, and if there are no impediments to the surrender in accordance with the Statute of the International Criminal Court.

(2) Otherwise, the court shall issue a decision rejecting the request of the International Criminal Court.

(3) When the decision on the surrender has been issued, the custody may last until the surrender.

Control of surrender decision

Article 35

The decision rejecting the request of the International Criminal Court for the surrender of the person indicted, together with the case file, shall be forwarded ex officio to the Superior Court of the Republic of Croatia which shall, in a panel of five judges, consider the request and the first-instance decision, and shall issue a decision to confirm, repeal or alter the decision of the district court.

Appealing against surrender decision

Article 36

(1) The public attorney, the person indicted and his/her defence counsel are entitled to appeal against the decision of the district court granting the request to surrender the person indicted. The appeal shall stay the execution of the decision, and it shall be decided on by a panel of the Superior Court of the Republic of Croatia consisting of five judges.

(2) The provisions of the Law on Criminal Procedure related to deciding on the appeal shall apply analogously to the procedure conducted by the Superior Court of the Republic of Croatia for deciding on the appeal mentioned in paragraph 1 above.

Final decision

Article 37

A valid court decision granting the surrender of the person indicted to the International Criminal Court is final. It may be appealed against by means of a constitutional complaint lodged with the Constitutional Court of the Republic of Croatia. The Minister of Justice may temporarily postpone the surrender of the

person indicted on account of this person's illness or for other particularly justified reason.

Service of decision

Article 38

The valid and final decision granting the surrender request of the International Criminal Court shall be served through the Ministry of Justice to the Government of the Republic of Croatia which shall then forward it to the International Criminal Court. The decision shall also be forwarded to the competent department of the Ministry of the Interior for execution.

Surrender of person indicted

Article 39

The surrender of the person indicted pursuant to the statement of voluntary surrender or pursuant to the valid and final decision on the surrender shall be carried out by the Ministry of the Interior.

VII. ENFORCEMENT OF JUDGEMENT AND OTHER DECISIONS OF THE INTERNATIONAL CRIMINAL COURT

Enforcement of judgements and other decisions of the International Criminal Court

Article 40

(1) The Republic of Croatia shall enforce the judgement and other decisions of the International Criminal Court by applying the Statute and other regulations of the International Criminal Court and the appropriate provisions of the domestic law.

(2) The Republic of Croatia shall inform the International Criminal Court without delay about the real or legal reasons preventing or restricting the enforcement of the judgement or other decision and shall consult the ICC on further proceeding.

Amission of persons convicted

Article 41

The Republic of Croatia shall admit the persons convicted to serve their sentence in accordance with a special agreement concluded separately in each individual case.

VIII. PARTICIPATION OF THE REPUBLIC OF CROATIA IN THE WORK OF THE INTERNATIONAL CRIMINAL COURT

Participation in the work of the Assembly of States Parties and other bodies of ICC

Article 42

(1) The representative of the Republic of Croatia at the Assembly of States Parties shall be determined by the Government of the Republic of Croatia.

(2) In addition to the representative mentioned in paragraph 1 above, one or more deputy representatives and experts on international criminal law may participate in the work of the Assembly.

(3) In accordance with the Statute and other documents of the ICC the Government of the Republic of Croatia shall ensure appropriate participation of the representatives of the Republic of Croatia in the work of other bodies of the ICC.

Elections and appointments in the International Criminal Court

Article 43

(1) In the procedure for the election or appointment of judges or other officials or staff of the ICC, the Government of the Republic of Croatia shall publish an invitation to the eligible persons to apply within a defined period of time, if the election or appointment is carried out at the proposal of the States Parties and if the Government believes that the Republic of Croatia should propose a candidate.

(2) If it finds it appropriate, the Government of the Republic of Croatia will also publish the information about the upcoming election or appointment in the ICC when candidates are expected to apply to the ICC directly.

(3) In the case mentioned in paragraph 1 above the Government of the Republic of Croatia shall conduct the procedure in such a manner so as to secure its transparency, the possibility for governmental and non-governmental professional and humanitarian bodies and organisations, and the application of the highest professional and moral criteria.

(4) When the Statute or other document of the ICC prescribes a special procedure for the election or appointment, the Government of the Republic of Croatia shall conduct the procedure in this manner, applying the appropriate provisions of the domestic law analogously.

Financing of ICC

Article 44

(1) The Republic of Croatia shall allocate the funds for financing the ICC from its national budget in accordance with the provisions of the Statute and other financial documents of the ICC.

(2) The fulfilment of the financial obligations toward the ICC shall be the responsibility of the Government of the Republic of Croatia.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Application of provisions of the Law related to the International Criminal Court

Article 45

The provisions of this Law related to the International Criminal Court and the cooperation with it, and to the apprehension and surrender of the persons indicted, shall be applied with regard to the crimes committed after the entry into force of the Statute (1 July 2002).

Application of provisions of this Law to all crimes

Article 45

(1) The provisions hereof related to uncovering and prosecuting crimes in the Republic of Croatia and to the organisation of government bodies (Articles 7-16 hereof) shall be applied as of the date of the entry of this Law into force, irrespectively of when the crime was committed and whether the criminal proceedings before a competent court have been instituted.

(2) If upon the entry of this Law into force the investigation is already under way, it shall be completed pursuant to the provisions of the Law on Criminal Procedure.

(3) If upon the entry of this Law into force the main hearing has not begun yet, or if a senior court acting on a remedy has repealed the decision issued in the first instance and has returned the case for re-trial, the main hearing and further proceedings shall be conducted pursuant to the provisions hereof before the courts competent and staffed pursuant to this Law.

Implementation of the regulations of the International Criminal Tribunal for the Former Yugoslavia, and of domestic regulations related to it

Article 46

The entry into force of this Law shall not affect the implementation of international law regulations related to the work of the International Criminal Tribunal for the Former Yugoslavia, the Constitutional Law on the Cooperation of the Republic of Croatia with the International Criminal Tribunal, and the regulations based on it.

Entry into force

Article 47

This Law shall enter into force on the eighth day from its publication in the Official Gazette of the Republic of Croatia.