


Strasbourg, 24/08/06

4th Consult/ICC (2006) 01



FOURTH
CONSULTATION
ON
THE IMPLICATIONS FOR COUNCIL OF EUROPE MEMBER STATES OF THE
RATIFICATION OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL
COURT
PROGRESS REPORT
CYPRUS

Council of Europe, Athens (Greece)
14-15 September 2006

1. The Republic of Cyprus ratified the Rome Statute in 2002 by enactment of the Rome Statute on the Establishment of the International Criminal Court (Ratification) Law of 2002, Law No.8(III)/2002.

2. In the year 2004, Cyprus also ratified the Agreement on Privileges and Immunities of the International Criminal Court, by enactment of ratifying Law No.56(III)/2004.

3. Very recently, the ratifying law of the Rome Statute referred to in paragraph 1 above, namely Law No. 8(III)/2002, has been amended by enactment of the Rome Statute for the Establishment of the International Criminal Court (Ratification)(Amendment) Law of 2006, Law 23(III)/2006. The amending legislation entered into force on 28.7.2006 upon publication in the Republic's Official Gazette.

4. Two major developments are introduced by said amending legislation:

Firstly, through express legislative provision, genocide, war crimes and crimes against humanity constitute criminal offences (felonies) in the domestic legal order of the Republic of Cyprus. Specifically, under a new provision inserted in the Law (new section 4), any person who commits genocide or a crime against humanity or a war crime is guilty of a felony punishable by life imprisonment (new section 4(1)). Section 4 deals also with ancillary offences, criminalizing the conduct of anyone who participates in the commission of any of the aforesaid offences, incites or induces or procures, or attempts or conspires with another to commit the same or knowingly conceals the commission of such offence.

Secondly, the new Law adds significantly to the jurisdiction of the Cyprus Courts by asserting universal jurisdiction over the three categories of crime. Under new section 6 of the Law, irrespective of the jurisdiction rules set by section 5 of the Criminal Code, the Court shall have jurisdiction to determine any offence contrary to this Law whether committed within or outside the territory of the Republic and whether committed by a citizen of the Republic or by some other person.

5. Further to the above, the new amending Law provides that, in the interpretation and application of the terms genocide, crimes against humanity and war crimes, the domestic Court shall take into consideration the Elements of Crime adopted, pursuant to article 9 of the Rome Statute, by the Assembly of States Parties on 9 September 2002 and as amended from time to time.

6. Finally, the new Law provides that criminal prosecution for the crime of genocide, war crime or a crime against humanity shall only be exercised by the Attorney-General of the Republic or upon his written approval.

7. Unofficial English translation of Law 23(III)/2006 is attached herewith.

Number 23(III)/2006
LAW AMENDING THE ROME STATUTE FOR THE ESTABLISHMENT OF THE
INTERNATIONAL CRIMINAL COURT (RATIFICATION) LAW OF 2002

The House of Representatives enacts as follows:

- | | |
|--|--|
| Short title
8(III) of 2002. | 1. This Law shall be referred to as the Rome Statute for the Establishment of the International Criminal Court (Ratification)(Amendment) Law of 2006 and it shall be read together with the Rome Statute for the Establishment of the International Criminal Court (Ratification) Law of 2002 (hereinafter referred to as “the basic law”) and the basic law and this law shall together be referred to as the Rome Statute for the Establishment of the International Criminal Court (Ratification) Laws of 2002 and 2006. |
| Amendment
of section 2
of the basic law. | 2. Section 2 of the basic law is amended by the addition, in proper alphabetical order, of the following terms and their definitions: <p style="margin-left: 40px;">“genocide” means any of the acts specified in article 6 of the Rome Statute</p> <p style="margin-left: 40px;">“Republic” means the Republic of Cyprus</p> <p style="margin-left: 40px;">“Court” means any Assize Court in the Republic</p> <p style="margin-left: 40px;">“crime against humanity” means any of the acts specified in article 7 the Rome Statute and</p> <p style="margin-left: 40px;">“war crime” means any of the acts specified in article 8.2 of the Rome Statute</p> <p style="margin-left: 40px;">“territory of the Republic” includes its territorial waters, the air space above the Republic and above its territorial waters and any vessel or aircraft registered in the Republic wherever this may be situated, unless, pursuant to international law, the said vessel or aircraft is subject, at the material time, due to its position, to the exclusive jurisdiction of foreign law.</p> |
| Amendment
of the basic law
by addition of
new sections. | 3. The basic law is amended by- <p style="margin-left: 40px;">(a) the addition, after current section 3 thereof and before current section 4 thereof, of the following new sections:</p> <p style="margin-left: 80px;">“Commission of genocide or a crime against humanity or a war crime.</p> <p style="margin-left: 80px;">4.-(1) Any person who commits genocide or a crime against humanity or a war crime is guilty of a felony punishable by life imprisonment.</p> <p style="margin-left: 80px;">(2)(a) Any person who commits any act related to an offence contrary to sub-section (1) of the present section is guilty of a felony punishable by life imprisonment.</p> <p style="margin-left: 80px;">(b) A person commits an act related to an offence contrary to sub-section (1) of the present section, who –</p> |

- (i) participates in the commission thereof by any means, or
- (ii) incites or induces or procures another to commit the said offence, or
- (iii) attempts or conspires with another to commit the said offence, or
- (iv) knowingly conceals the commission of the said offence.

Interpretation of certain articles of the Rome Statute. 5. In the interpretation and application of articles 6,7 and 8.2 of the Rome Statute, the Court shall take into consideration any relevant Elements of Crime adopted, pursuant to article 9 of the Rome Statute, by the Assembly of States Parties on 9 September 2002, as they may from time to time be amended, in accordance with article 9 of the Rome Statute.

Jurisdiction of the Court Cap. 154. 6. Irrespective of the provisions of article 5 of the Criminal Code, the Court shall have jurisdiction to determine any offence contrary to this Law whether committed within or outside the territory of the Republic and whether committed by a citizen of the Republic or by some other person.

3 of 1962
 43 of 1963
 41 of 1964
 69 of 1964
 70 of 1965
 5 of 1967
 58 of 1967
 44 of 1972
 92 of 1972
 29 of 1973
 59 of 1974
 3 of 1975
 13 of 1979
 10 of 1981
 46 of 1982
 86 of 1983
 186 of 1986
 111 of 1989
 236 of 1991
 6(I) of 1994
 3(I) of 1996
 99(I) of 1996
 36(I) of 1997
 40(I) of 1998
 45(I) of 1998
 15(I) of 1999
 37(I) of 1999
 38(I) of 1999
 129(I) of 1999
 30(I) of 2000
 43(I) of 2000
 77(I) of 2000
 162(I) of 2000
 169(I) of 2000

181(I) of 2000
 27(I) of 2001
 12(I) of 2002
 85(I) of 2002
 144(I) of 2002
 145(I) of 2002
 25(I) of 2003
 48(I) of 2003
 84(I) of 2003
 164(I) of 2003
 124(I) of 2004
 31(I) of 2005
 18(I) of 2006.

Prosecution. 7. Criminal prosecution of an offence contrary to this Law shall only be exercised by the Attorney General of the Republic or upon his written approval.

Determination of offences
 Cap. 154. 8. Any offence under this Law shall be determined by any Court irrespective of the provisions of section 6 of the Criminal Code, which shall not

apply.” and
 3 of 1962
 43 of 1963
 41 of 1964
 69 of 1964
 70 of 1965
 5 of 1967
 58 of 1967
 44 of 1972
 92 of 1972
 29 of 1973
 59 of 1974
 3 of 1975
 13 of 1979
 10 of 1981
 46 of 1982
 86 of 1983
 186 of 1986
 111 of 1989
 236 of 1991
 6(I) of 1994
 3(I) of 1996
 99(I) of 1996
 36(I) of 1997
 40(I) of 1998
 45(I) of 1998
 15(I) of 1999
 37(I) of 1999
 38(I) of 1999
 129(I) of 1999
 30(I) of 2000
 43(I) of 2000
 77(I) of 2000
 162(I) of 2000
 169(I) of 2000

181(I) of 2000
27(I) of 2001
12(I) of 2002
85(I) of 2002
144(I) of 2002
145(I) of 2002
25(I) of 2003
48(I) of 2003
84(I) of 2003
164(I) of 2003
124(I) of 2004
31(I) of 2005
18(I) of 2006.

(b) the renumbering of current section 4 thereof as section 9.