
Amnesty International

THE INTERNATIONAL CRIMINAL COURT: Summary Checklist for Effective Implementation

Part 1. Complementarity:

I. DEFINING CRIMES, PRINCIPLES OF CRIMINAL RESPONSIBILITY AND DEFENCES

1. Legislation should provide that the crimes in the Rome Statute, including other crimes under international law, are crimes under national law.

2. National courts should be able to exercise universal jurisdiction in all cases of crimes under international law.

3. Principles of criminal responsibility in national legislation for crimes under international law should be consistent with customary international law.

4. Defences in national law to crimes under international law should be consistent with customary international law.

II. ELIMINATION OF BARS TO PROSECUTION

5. No statutes of limitations are permitted.

6. No amnesties, pardons or similar measures of impunity by any state should be recognized.

7. Immunity of officials from prosecution for crimes under international law should be eliminated.

III. ENSURING FAIR TRIALS WITHOUT THE DEATH PENALTY

8. Trials must be fair.

9. Trials should exclude the death penalty.

Part 2. Cooperation:

I. BASIC OBLIGATION TO COOPERATE

10. National courts and authorities must cooperate fully with Court orders and requests.

II. STATUS OF THE COURT IN NATIONAL LAW

11. The Court must be authorized to sit in the state.

12. The legal personality of the Court must be recognized.

13. The privileges and immunities of the Court, its personnel, counsel, experts, witnesses and other persons whose presence is required at the seat of the Court must be fully respected.

III. NOMINATION OF CANDIDATES TO BE JUDGES OR PROSECUTOR

14. States should ensure that they nominate candidates to be Judges and the Prosecutor in an open process with the broadest possible consultation.

IV. FACILITATING AND ASSISTING COURT INVESTIGATIONS

15. When the Prosecutor has deferred an investigation, states shall comply without delay to requests for information.

16. States shall give effect to acts of the Prosecutor or warrants issued by the Court prior to an Article 19 challenge to jurisdiction or admissibility and to actions by the Prosecutor to preserve evidence or prevent an accused person absconding pursuant to Articles 18 (6) and 19 (8).

17. States should facilitate the ability of the Office of the Prosecutor and the defence to conduct investigations in the state without any hindrance.

18. National legislation should not contain grounds for refusal of requests for assistance by the Court in connection with investigations and prosecutions.

19. National authorities must provide a broad range of assistance to the Court, as outlined below.

A. Assistance related to documents and records, information and physical evidence

a. Locating and providing documents and records, information and material evidence requested or ordered by the Court.

b. Preserving such evidence from loss, tampering or destruction.

c. Serving any documents requested by the Court.

B. Assistance related to victims and witnesses

d. Assisting the Court in locating witnesses.

e. Providing victims and witnesses with any necessary protection.

f. Fully respecting the rights of persons questioned in connection with investigations of crimes within the Court's jurisdiction.

g. Assisting the Court by compelling witnesses to testify, subject to any lawful privilege, at the seat of the Court or in the state.

C. Assistance related to searches and seizures

h. Facilitating searches and seizures of evidence by the Court, including the exhumation of graves, and the preservation of evidence.

i. Assisting in tracing, freezing, seizing and forfeiting assets of accused persons.

j. Providing any other assistance requested or ordered by the Court.

V. ARREST AND SURRENDER OF ACCUSED PERSONS

20. States parties should ensure that there are no obstacles to arrest and surrender.

21. National courts and authorities must arrest accused persons as soon as possible after a request by the Court.

22. National courts and authorities must fully respect the rights of those arrested at the request or order of the Court.

23. National courts and authorities must surrender arrested persons promptly to the Court.

24. States should give priority to requests for surrender by the Court over competing requests by other states.

25. States must permit transfers of accused persons through their territory to the seat of the Court.

26. States must not retry persons acquitted or convicted by the Court for the same conduct.

VI. ENSURING EFFECTIVE REPARATIONS TO VICTIMS

27. National courts and authorities must enforce judgments and decisions of the Court concerning reparations for victims and should provide for reparations in national law for all victims of crimes under international law in accordance with international standards, including the general principles established by the Court relating to reparations.

VII. TRYING CASES OF OFFENCES AGAINST THE ADMINISTRATION OF JUSTICE

28. Legislation must provide for punishment of offences against the administration of justice by the Court.

VIII. ENFORCEMENT OF SENTENCES

29. Legislation must provide for enforcement of fines and forfeiture measures.

30. Legislation should provide for the enforcement of sentences by the Court, in accordance with the requirements set forth below.

a. Conditions of detention must fully satisfy the requirements of the Statute and other international standards.

b. Legislation should provide for release of the convicted person on completion of sentence or on order of the Court.

c. Legislation should provide for the transfer of persons on completion of sentence.

d. Legislation should limit prosecutions and punishment for other offences.

e. Legislation should address the question of escape.

IX. PUBLIC EDUCATION AND TRAINING OF OFFICIALS

31. States parties should develop and implement effective programs of public education and training for officials on implementation of the Statute.

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