

INTERNATIONAL CRIMINAL COURT

AMNESTY
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ROME STATUTE IMPLEMENTATION REPORT CARD

PART ONE

The photograph shows a report card with three rows of implementation status. The first row is for 'Crime is not included in implementation law'. The second row is for 'Crime is included, however it contains flaws. Legislation that copies Article 8 of the Rome Statute verbatim will be given the symbol.' The third row is for 'Crime is included and the definition is consistent with international law'. Below this is a table with columns for 'Country', 'Genocide', 'Crimes against humanity', and 'War crimes'. The row for 'Argentina' has dots in the 'Genocide', 'Crimes against humanity', and 'War crimes' columns.

Country	Genocide	Crimes against humanity	War crimes
Argentina	●	●	●

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Amnesty International is a global movement of 2.8 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

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cover photo: Report card table illustrating how states have incorporated genocide, crimes against humanity and war crimes into national law.

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INTRODUCTION

All states that ratify or accede to the Rome Statute of the International Criminal Court (Rome Statute) commit themselves to co-operating fully with the International Criminal Court (the Court) and to investigating and prosecuting genuinely genocide, crimes against humanity and war crimes before their national courts. The Court can only step in when the national authorities are unable or unwilling genuinely to do so.

Without full co-operation, the Court will struggle to operate effectively. Without national investigations and prosecutions, the Court will be overwhelmed with cases and the vision of the Rome Statute whereby national authorities fulfil their primary responsibility to ensure justice will not be achievable.

Since 2000, Amnesty International has been urging governments that have ratified, acceded or that are in the process of ratifying or acceding to the Rome Statute to review their national laws and either enact new or amend existing legislation to implement fully their obligations under the Rome Statute.

Amnesty International issued a first *Checklist for effective implementation* of the Rome Statute in 2000. The *Checklist* has been updated in 2010:

Amnesty International, *International Criminal Court: Updated checklist for effective implementation*, Index: IOR 40/005/2010, May 2010, available in Arabic, English, French and Spanish at: <http://www.amnesty.org/en/library/info/IO53/009/2010/en>

In addition, Amnesty International has provided technical advice to drafters and commented on draft and enacted legislation in more than 20 countries.

Amnesty International is concerned that almost eight years after the entry into force of the Rome Statute, less than one third of the states parties have enacted legislation seeking to implement fully both their co-operation and complementarity obligations into national law. Furthermore, much of the legislation that has been enacted is significantly flawed.

See:

Amnesty International, *The failure of states to enact effective implementing legislation*, Index: IOR 40/019/2004, August 2004.

These issues must be addressed to ensure the effective functioning of the Rome Statute system and the work of the Court to achieve accountability for crimes that “deeply shock the conscience of humanity.” This report aims at identifying emerging trends in enacted legislation, including a number of common flaws which threaten to undermine the ability of governments to fulfil their obligations.

This Implementation Report Card is being published in two parts:

- **Part I** is being submitted to the Review Conference of the Rome Statute of the International Criminal Court (31 May to 11 June 2010) to contribute to the

stocktaking discussions on complementarity and co-operation. It consists of two charts and a table summarizing the status of enacted co-operation and complementarity legislation, as well as draft implementing legislation, on the eve of the Review Conference.

- **Part II** will be published after the Review Conference in the light of discussions with country delegations. It will set out the current status of implementation in all 111 states parties by providing up-to-date information on which states parties have enacted and drafted legislation. Part II will also set out an initial analysis of legislation that has been enacted by more than 50 states parties, applying key recommendations contained in Amnesty International's *Updated Checklist for effective implementation*.
- The **Appendix** lists the available enacted implementing legislation as of 15 May 2010. It also lists legislation that is not readily available or translated into one of the official languages of the Court.

This report will be updated for the ninth session of the Assembly of States Parties and periodically thereafter, with the aim of including additional information. States parties are strongly encouraged to review Amnesty International's analysis and supply the organization with copies of additional legislation and other explanations so that their national legislation is accurately reflected. States parties can contact Amnesty International staff members working on this project by e-mailing: ijp@amnesty.org

Amnesty International reminds states parties that the Assembly's Plan of Action expressly requests states to provide the Secretariat with copies of their implementing legislation. This information should be translated into at least one of the languages of the Court and provided to the Secretariat and the Court to post on the Legal Tools database.

METHODOLOGY

The information about draft and enacted implementing legislation is being collected from a range of sources, including:

- interviews with delegates at the Assembly of States Parties and the Review Conference,
- exchanges of information with staff and members of the Coalition for the International Criminal Court,
- government responses to the Secretariat of the Assembly of States Parties annual questionnaire on the Plan of Action for Universal Ratification and Full Implementation of the Rome Statute (Plan of Action) and
- a review of implementing legislation databases, in particular the Legal Tools section of the International Criminal Court's website and the national implementation database of the International Committee of the Red Cross.

In most cases, the legislation listed in this report is limited to laws:

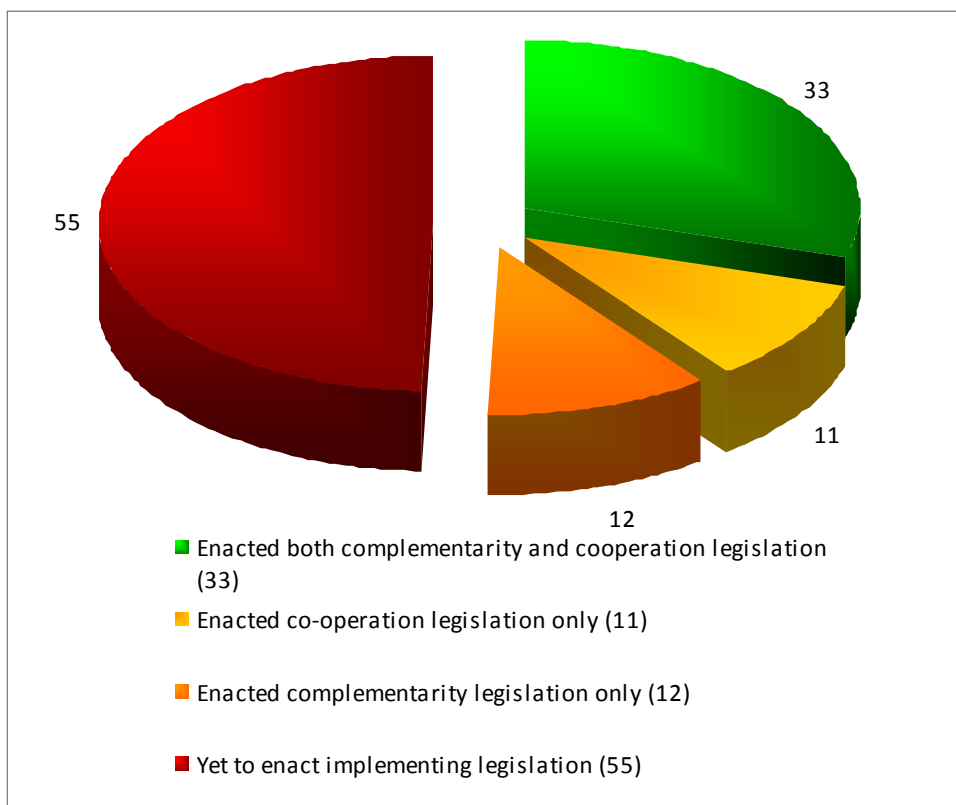
- (a) enacted by the current 111 states parties to the Rome Statute since the adoption of the Rome Statute in 1998;
- (b) that specifically seeks to implement the Rome Statute.

This includes new or amended criminal codes or criminal procedural codes and other legislation aimed specifically at implementing the Rome Statute. Only legislation which has entered into force has been included. Legislation signed by the head of state, but not yet published in the official gazette has been classified as draft legislation. In most cases, other national legislation is not listed, unless the organization is certain of its status.

Amnesty International has endeavoured to locate all enacted legislation. The organization has, however, been unable to obtain a number of laws which are not readily accessible and has been unable to analyse a number of laws which have not been translated into at least one of the official languages of the Court. Countries reported to have drafted implementing legislation have been considered among those with drafted legislation, even if Amnesty International does not have copies.

PART I: STATUS OF IMPLEMENTING LEGISLATION

STATUS OF ENACTED IMPLEMENTING LEGISLATION IN COUNTRIES THAT HAVE RATIFIED THE ROME STATUTE



Of the 111 states parties to the Rome Statute:

- 33 states parties have enacted both complementarity and co-operation legislation;
- 11 states parties have enacted co-operation legislation only;
- 12 states parties have enacted complementarity legislation only;
- 55 states parties have yet to enact either co-operation or complementarity implementing legislation.

78 states parties to the Rome Statute have yet to enact legislation implementing both complementarity and co-operation obligations.

STATES PARTIES WITH ENACTED LEGISLATION IMPLEMENTING BOTH COMPLEMENTARITY AND CO-OPERATION OBLIGATIONS (33)

Argentina, Australia, Belgium, Canada, Croatia, Estonia, Finland, Georgia, Germany, Iceland, Ireland, Kenya, Korea (Republic of), Latvia, Lithuania, Macedonia (FYR), Malta, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Samoa, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, Trinidad and Tobago, United Kingdom, Uruguay.

STATES PARTIES WITH ENACTED LEGISLATION IMPLEMENTING ONLY CO-OPERATION OBLIGATIONS (11)

Eleven states parties have enacted legislation implementing only co-operation obligations. Of these:

- Three states parties have enacted co-operation legislation and drafted complementarity legislation: France, Peru and Switzerland.
- Eight states parties have enacted co-operation legislation, but do not have either enacted or drafted complementarity legislation: Austria, Bulgaria, Comoros, Denmark, Japan, Liechtenstein, Romania, Sweden.

STATES PARTIES WITH ENACTED LEGISLATION IMPLEMENTING ONLY COMPLEMENTARITY OBLIGATIONS (12)

Twelve states parties have enacted legislation implementing only complementarity obligations. Of these:

- Two states parties has enacted complementarity legislation and drafted co-operation legislation: Czech Republic and Fiji.
- 10 states parties have enacted complementarity legislation, but do not have either enacted or drafted co-operation legislation: Albania, Bosnia and Herzegovina, Burundi, Chile, Congo (Republic of), Cyprus, Mali, Niger, Panama, Timor-Leste.

STATES PARTIES WITH NO ENACTED LEGISLATION IMPLEMENTING THE ROME STATUTE (55)

Fifty-five states parties have not enacted legislation implementing the Rome Statute. Of these:

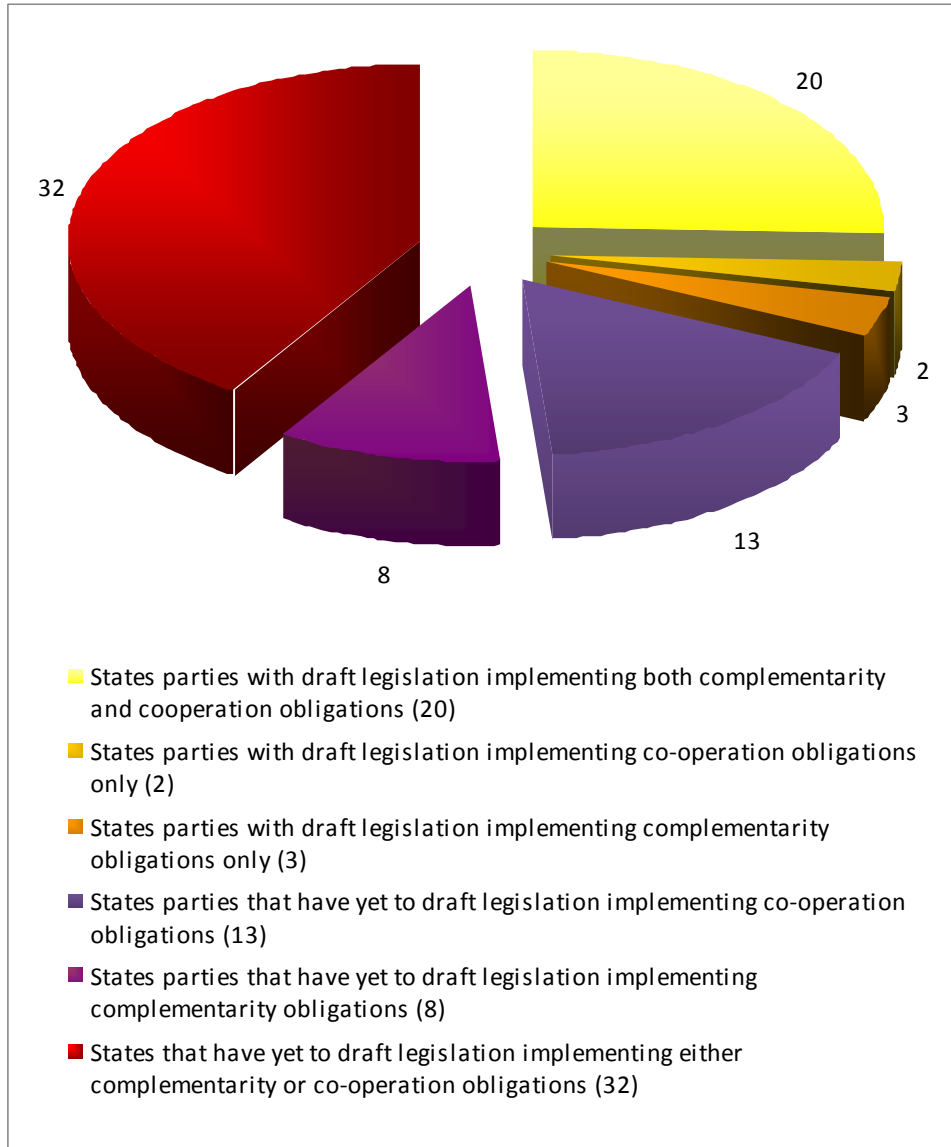
- 20 states parties have drafted co-operation and complementarity legislation: Afghanistan, Benin, Brazil, Burkina Faso, Central African Republic, Cook Islands, Democratic Republic of the Congo, Dominica, Ghana, Greece, Italy, Lesotho,

Mexico, Mongolia, Nigeria, Paraguay, Sierra Leone, Suriname, Uganda, Venezuela.

- Three states parties have drafted only complementarity legislation: Costa Rica, Gabon, Hungary.

- 32 states parties do not have either draft or enacted implementing legislation: Andorra, Antigua and Barbuda, Barbados, Bangladesh, Belize, Bolivia, Botswana, Cambodia, Chad, Colombia, Djibouti, Dominican Republic, Ecuador, Gambia, Guinea, Guyana, Honduras, Jordan, Liberia, Luxembourg, Madagascar, Malawi, Marshall Islands, Mauritius, Namibia, Nauru, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Tajikistan, Tanzania, Zambia.

STATUS OF DRAFT IMPLEMENTING LEGISLATION IN COUNTRIES THAT HAVE RATIFIED THE ROME STATUTE



Seventy-eight (78) states parties to the Rome Statute have yet to enact legislation implementing both complementarity and co-operation obligations. Of these:

- **20 states parties have draft legislation implementing both complementarity and co-operation obligations;**
- **Two states parties have draft legislation implementing co-operation obligations only;**
- **Three states parties have draft legislation implementing complementarity obligations only;**
- **13 states parties have yet to draft legislation implementing their co-operation obligations;**
- **Eight states parties have yet to draft legislation implementing their complementarity obligations;**
- **32 states parties have yet to draft legislation implementing either complementarity or cooperation obligations.**

STATES PARTIES WITH DRAFT LEGISLATION IMPLEMENTING BOTH COMPLEMENTARITY AND CO-OPERATION OBLIGATIONS (20)

Afghanistan, Benin, Brazil, Burkina Faso, Central African Republic, Cook Islands, Democratic Republic of the Congo, Dominica, Ghana, Greece, Italy, Lesotho, Mexico, Mongolia, Nigeria, Paraguay, Sierra Leone, Suriname, Uganda, Venezuela.

STATES PARTIES WITH DRAFT LEGISLATION IMPLEMENTING CO-OPERATION OBLIGATIONS ONLY (2)

Czech Republic, Fiji.

STATES PARTIES WITH DRAFT LEGISLATION IMPLEMENTING COMPLEMENTARITY OBLIGATIONS ONLY (3)

France, Peru, Switzerland.

STATES PARTIES THAT HAVE YET TO DRAFT LEGISLATION IMPLEMENTING THEIR CO-OPERATION OBLIGATIONS (13)

Albania, Bosnia and Herzegovina, Burundi, Chile, Costa Rica, Congo (Republic of), Cyprus, Gabon, Hungary, Mali, Niger, Panama, Timor-Leste.

STATES PARTIES THAT HAVE YET TO DRAFT LEGISLATION IMPLEMENTING THEIR COMPLEMENTARITY OBLIGATIONS (8)

Austria, Bulgaria, Comoros, Denmark, Japan, Liechtenstein, Romania, Sweden.

**STATES PARTIES THAT HAVE YET TO DRAFT LEGISLATION IMPLEMENTING EITHER
COMPLEMENTARITY OR CO-OPERATION OBLIGATIONS (32)**

Andorra, Antigua and Barbuda, Barbados, Bangladesh, Belize, Bolivia, Botswana, Cambodia, Chad, Colombia, Djibouti, Dominican Republic, Ecuador, Gambia, Guinea, Guyana, Honduras, Jordan, Liberia, Luxembourg, Madagascar, Malawi, Marshall Islands, Mauritius, Namibia, Nauru, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Tajikistan, Tanzania, Zambia.

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SUMMARY TABLE OF DRAFTED AND ENACTED LEGISLATION

	Enacted complementarity legislation	Draft complementarity legislation	Neither enacted or draft complementarity legislation	Totals
Enacted co-operation legislation	Enacted co-operation and complementarity legislation: Argentina, Australia, Belgium, Canada, Croatia, Estonia, Finland, Georgia, Germany, Iceland, Ireland, Kenya, Korea (Republic of), Latvia, Lithuania, Macedonia (FYR), Malta, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Samoa, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, Trinidad and Tobago, United Kingdom, Uruguay (33)	Enacted co-operation legislation and draft complementarity legislation: France, Peru and Switzerland (3)	Enacted co-operation legislation and no complementarity legislation: Austria, Bulgaria, Comoros, Denmark, Japan, Liechtenstein, Romania, Sweden (8)	44
Draft co-operation legislation	Draft co-operation legislation and enacted complementarity legislation: Czech Republic, Fiji (2)	Draft co-operation and complementarity legislation: Afghanistan, Benin, Brazil, Burkina Faso, Central African Republic, Cook Islands, Democratic Republic of the Congo, Dominica, Ghana, Greece, Italy, Lesotho, Mexico, Mongolia, Nigeria, Paraguay, Sierra Leone, Suriname, Uganda, Venezuela (20)		22
Neither enacted or draft co-operation legislation	No co-operation legislation and enacted complementarity legislation: Albania, Bosnia and Herzegovina, Burundi, Chile, Congo (Republic of), Cyprus, Mali, Niger, Panama, Timor-Leste (10)	No co-operation legislation and draft complementarity legislation: Costa Rica, Gabon, Hungary (3)	No co-operation or complementarity legislation: Andorra, Antigua and Barbuda, Barbados, Bangladesh, Belize, Bolivia, Botswana, Cambodia, Chad, Colombia, Djibouti, Dominican Republic, Ecuador, Gambia, Guinea, Guyana, Honduras, Jordan, Liberia, Luxembourg, Madagascar, Malawi, Marshall Islands, Mauritius, Namibia, Nauru, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Tajikistan, Tanzania, Zambia (32)	45
Totals	45	26	40	111

APPENDIX

ENACTED IMPLEMENTING LEGISLATION AVAILABLE FOR ANALYSIS

Albania	CRIMINAL CODE OF THE REPUBLIC OF ALBANIA, 1995.
Argentina	LEY 26.200 (DE IMPLEMENTACIÓN DEL ESTATUTO DE ROMA), 2007.
Australia	International Criminal Court Act 2002. International Criminal Court (Consequential Amendments) Act 2002. Criminal Code Act 1995 (as amended 23 December 2003).
Austria	Federal Law n° 135: Cooperation with the International Criminal Court (N°: GP XXI RV 1168 AB 1214 P. 110 BR 6696 AB 6739 S 690), 13 August 2002
Belgium	Act of 29 March 2004 on cooperation with the International Criminal Court and the International Criminal Tribunals Act of 5 August 2003 on serious violations of international humanitarian law
Bosnia and Herzegovina	The Criminal Code of Bosnia and Herzegovina, 2003 Law on Implementation of the Rome Statute of the ICC and Cooperation with the ICC
Bulgaria	Penal Code (with amendments as at 2005)
Burundi	Loi No.1/004 du 8 mai 2003, portant répression du crime de génocide, des crimes contre l'humanité et des crimes de guerre
Canada	Crimes Against Humanity and War Crimes Act 2000 Extradition Act 1999 Mutual Legal Assistance in Criminal Matters Act, R.S.C. 1985, c. 30 (4th Supp.)
Chile	LEY 20.357 (TIPIFICA CRÍMENES DE LESA HUMANIDAD Y GENOCIDIO Y CRÍMENES Y DELITOS DE GUERRA)
Comoros	Loi No. 07- 002/AU relative à la Coopération avec la

	Cour Pénale Internationale
Congo (Republic of)	Loi N°8-98, Du 31 Octobre 1998
Costa Rica	CÓDIGO PENAL (AS AMENDED BY LAW 8272 (2002)).
Croatia	Criminal Code Law on the implementation of the Statute of the International Criminal Court and the prosecution of criminal offences against international law of war and humanitarian law (of 17 November 2003).
Cyprus	Number 23 (III)/2006, Law amending the Rome statute for the establishment of the international criminal court (ratification) law of 2002
Denmark	Act 342/2001 on the International Criminal Court
Estonia	Penal Code, adopted 6 June 2001, entered into force 1 September 2002, as amended through 2004 Code of Criminal Procedure, adopted 12 February 2003, as amended through 28 June 2004
Fiji	Crimes Decree 2009 (Decree no.44)
Finland	Criminal Code of Finland (39/1889 amendments up to 940/2008 included) (Unofficial translation by Ministry of Justice Finland) Act on the implementation of the provisions of a legislative nature of the Rome Statute of the International Criminal Court and on the application of the Statute (1284/2000). International Legal Assistance in Criminal Matters Act (4/1994)
France	Loi no 2002-268 du 26 février 2002 relative à la coopération avec la Cour pénale internationale
Georgia	Criminal Code of Georgia, No. 41(48), 22 July 1999 Law of Georgia on Amendments to the “Criminal Code Of Georgia” Law of Georgia on Cooperation between the International Criminal Court and Georgia
Germany	Act to introduce the Code of Crimes against International Law Law on Cooperation with the International Criminal Court (ICC Act)
Ireland	International Criminal Court Act 2006

Kenya	Chapter 16, International Crimes Act, 2008 (entered into force 1 January 2009)
Korea (Republic of)	Act on Punishment of crimes within the jurisdiction of the International Criminal Court Extradition Act (Unofficial translation by the Organization for Economic Cooperation and Development) Act on International Judicial Mutual Assistance in Criminal Matters (Unofficial translation by the Organization for Economic Cooperation and Development)
Latvia	The Criminal Law of 22 January 2009 The Code On Criminal Procedure (no date)
Liechtenstein	Law of 20 October 2004 on Cooperation with the International Criminal Court and other International Tribunals
Lithuania	Law on the approval and entry into force of the criminal code, 26 September 2000, no. VIII-1968, as amended 12 June 2008, No. X-1597
Macedonia (FYR)	Criminal Code, as amended up to September 2004
Mali	Loi N°-01- 079 du 20 août 2001 portant Code pénal
Malta	Criminal Code, chapter 9, as amended, 2005 International Criminal Court Act, 13 December 2003
Montenegro	Criminal Code (“Official Gazette of the Republic of Montenegro ” no. 70/2003, and Correction, no. 13/2004)
Netherlands	Netherlands International Criminal Court Implementation Act, 2002 Netherlands International Crimes Act 2003
New Zealand	International Crimes and International Criminal Court Act 2000 International Crimes and International Criminal Court Amendment Act 2002
Niger	LOI No.2003-025, du 13 juin 2003, modifiant la Loi 61-27 du 15 juillet 1961 portant institution du Code Pénal
Norway	Chapter 16 Penal Code Act No.65 of 15 June 2001 relating to the implementation of the Statute of the International

	Criminal Court of 17 July 1998 (the Rome Statute) in Norwegian law.
Panama	Código Penal, 2007
Peru	Código Procesal Penal (Decreto legislativo No.957) (2004).
Poland	Penal Code Procedure in criminal cases in international relations
Portugal	Law no. 31/2004 of the 22 July, adapting Portuguese criminal legislation to the Statute of the International Criminal Court specifying conduct constituting crimes against international humanitarian law – 17th amendment to the Criminal Code Law No. 144/99 of 31 August (as amended by Laws No. 104/2001 of 25 August and No. 48/2003 of 22 August)
Romania	Criminal Code, Special Part
Samoa	International Criminal Court Act 2007
Senegal	Loi NO.2007-02 du 12 février 2007 modifiant le Code Pénal. Loi NO.2007-05 du 12 février 2007 modifiant le Code de la Procédure pénal relative à la mise en œuvre du Traité de Rome instituant la Cour pénale internationale.
Serbia	Criminal Code Criminal Procedure Code
Slovakia	Penal Code
Slovenia	Criminal Code of the Republic of Slovenia Co-operation between the Republic of Slovenia and the International Criminal Court Act
South Africa	Implementation of the Rome Statute of the International Criminal Court Act 27 of 2002
Spain	Código Penal (Ley Orgánica 10/1995, según enmiendas)
Sweden	Cooperation with the International Criminal Court Act n.2002.329 (of 8 May 2002) Cooperation with the International Criminal Court Ordinance n. 2003.69
Switzerland	Federal Law on Cooperation with the International Criminal Court of 22 June 2001

Timor Leste	Penal Code
Trinidad and Tobago	The International Criminal Court Act, 2006
United Kingdom	International Criminal Court Act 2001 International Criminal Court (Scotland) Act 2001
Uruguay	LAW 18.026 (2006)

ENACTED IMPLEMENTING LEGISLATION THAT IS NOT READILY AVAILABLE OR HAS NOT BEEN TRANSLATED INTO AN OFFICIAL LANGUAGE OF THE COURT

Czech Republic	Criminal Code (Act no. 40/2009)
Finland	Act on International Cooperation in the Enforcement of Certain Penal Sanctions (21/1987).
Iceland	Law Implementing the Rome Statute of the International Criminal Court - Lög um framkvæmd Rómarsamþykktar um Alþjóðlega sakamáladómstólinn
Japan	Law on cooperation with the International Criminal Court
Lithuania	Code of criminal procedure, 1 May 2003
Montenegro	Law on cooperation, approved by parliament on 27 July 2009.
Norway	Full text of current Penal Code (Chapter 16 only currently available)
Sweden	International Legal Assistance in Criminal Matters Act (2000:562)



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CONFLICT OR A FORGOTTEN
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TO GALVANIZE PUBLIC SUPPORT
TO BUILD A BETTER WORLD

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INTERNATIONAL CRIMINAL COURT ROME STATUTE IMPLEMENTATION REPORT CARD

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Without full co-operation, the Court will struggle to operate effectively. Without national investigations and prosecutions, the Court will be overwhelmed.

States must therefore review their national laws and either enact new or amend existing legislation to implement fully their obligations under the Rome Statute.

This *Implementation Report Card* analyzes legislation enacted in more than 50 states and identifies a number of common flaws which threaten to undermine the ability of governments to fulfil their obligations.

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