

**Romania (28 July 1998)**

**Official Journal No. 283/ 31 July 1998**

**LAW No. 159/ 28 July 1998**

**regarding the cooperation of the Romanian authorities with the  
International Criminal Tribunal for the Prosecution of Persons Responsible  
for Serious Violations of International Humanitarian Law  
Committed in the Territory of the Former Yugoslavia since 1991**

*Unofficial translation*

The Parliament of Romania adopts the present law:

**CHAPTER I  
General Provisions**

**Article 1**

Romania shall cooperate, through its competent authorities and under the present law, with the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established by UN Security Council resolution 827/1993.

**Article 2**

The provisions of the present law shall apply to those persons found on the Romanian territory, alleged responsible for serious violations as stipulated in Romanian criminal law and which, according to articles 2 - 5 of the Statute of the International Tribunal, consist of grave breaches of the Geneva Conventions of 1949, violations of the laws or customs of war, genocide or other crimes against humanity.

**Article 3**

The cooperation procedure shall be initiated at the request of the International Tribunal (hereinafter IT).

**Article 4**

The Ministry of Justice is the central competent authority for receiving the requests of the International Tribunal, for checking them as far as their form is concerned and for transmitting them, as soon as possible, to the competent judicial institutions, in order to be resolved.

**Article 5**

The International Tribunal shall be informed, upon its request, by the Ministry of Justice about cases under investigation or prosecution, having as their subjects crimes over which the Tribunal has jurisdiction, as well as about those cases concerning persons convicted for other similar crimes who are serving their term in prison in Romania.

For this reason, the Prosecutor's Department of the Supreme Court of Justice and the Ministry of the Interior shall provide the Ministry of Justice with all available data relevant for the settlement of the requests received from the International Tribunal.

## **CHAPTER II** **Jurisdiction of the Romanian Judicial Institutions**

### **Article 6**

The cases having as their subjects crimes over which the International Tribunal has jurisdiction, under investigation or prosecution in Romania, shall be transmitted to the International Tribunal, according to Article 9, paragraph 2 of its Statute, which provides for the Tribunal's primacy of jurisdiction.

For this purpose, the Prosecutor or the Court of Justice, as the case may be, shall decline its competence and forward the file to the Ministry of Justice, for submission to the International Tribunal.

### **Article 7**

Any person who suffered an injury as a result of one of the crimes over which the International Tribunal has jurisdiction may declare himself a civil party, against the suspect or the accused and the person civilly responsible, by bringing a civil action to the Romanian Court which has territorial jurisdiction.

The civil action shall be resolved on the ground of the penal irrevocable judgement of the International Tribunal, which has the authority of *res judicata* for the Romanian Court, regarding the criminal responsibility of the convicted.

## **CHAPTER III** **Examination and Resolving the Warrant of Arrest and Surrender of the Person in Custody**

### **Article 8**

The request of the International Tribunal referring to the arrest and surrender of a person alleged to be responsible for grave violations of international humanitarian law, with a copy of the indictment and other accompanying documents, shall be transmitted by the Ministry of Justice to the Prosecutor-General of the Supreme Court of Justice or to the Court where the action has been brought, in order to be resolved.

If the arrest warrant issued by the International Tribunal or by the Prosecutor cannot be executed, the Ministry of Justice shall inform the International Tribunal about the obstacles which led to the impossibility of execution of the warrant.

### **Article 9**

The arrest warrant issued by the International Tribunal or by its Prosecutor, as the case may be, shall be carried out after the identification of the person in question, by taking the measure of preventive detention, under the conditions of Romanian law.

The arrested person, if he or she considers that the measure taken is illegal, is entitled to submit a complaint to the competent Romanian Court.

The Ministry of Justice notifies the International Tribunal at once of the measure of detention.

### **Article 10**

The surrender of the person in custody shall be done at the time and the place decided by the International Tribunal and the Ministry of Justice.

The period of preventive detention shall be specified in the document of surrender, in order to be deduced if the person is convicted.

The surrender of the person in custody is done without considering the procedure of extradition, and shall prevail over any legal obstacle that could result from Romanian law or international conventions to which Romania is a party.

The provisions of the present law, relating to the surrender, shall also apply when the person alleged to be responsible for grave violations of international humanitarian law, committed in the territory of the former Yugoslavia, is serving a punishment for crimes, other than the ones over which the International Tribunal has jurisdiction.

The surrender of a person currently serving a punishment shall interrupt the executory prescription, provided by the Romanian criminal law.

## **CHAPTER IV** **Resolving Other Requests and Transmitting Data from the Criminal Files**

### **Article 11**

The Romanian judicial institutions must also resolve other requests of the International Tribunal, having as their subjects: the identification of persons who could act as witnesses or experts in current cases, the hearing of the witnesses specified in the requests, taking and keeping written documents, the seizure of items used for committing the crime, in order to send them to the International Tribunal.

In addition, they shall seize goods and valuables resulting from crimes committed in the territory of the former Yugoslavia, so that these can be given back to the injured person, and shall render other acts useful to resolving the case.

### **Article 12**

The requests of the International Tribunal specified in Article 11, along with the accompanying documents received by the Ministry of Justice, shall be transmitted to the Prosecutor's Department of the Supreme Court of Justice, which shall take the necessary measures to resolve them.

The acts rendered by the criminal investigation institutions shall be transmitted to the International Tribunal, through the Ministry of Justice.

## **CHAPTER V** **Final Provisions**

### **Article 13**

The provision of the present law shall be completed with the provisions of the Code of Criminal Law and the Code of Criminal Procedure, unless they provide otherwise.

### **Article 14**

This law shall enter into force ten days after the date of publication in the Official Bulletin of Romania, Part One, and shall be applicable until the termination of the activity of the International

**Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of  
International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.**

**1** This law was adopted by the House of Deputies on 30 September 1997 and by the Senate on 29 June 1998; it was promulgated by the President on 27 July 1998 (Decree No. 285).