

DRAFT LEGISLATION - IMPLEMENTATION OF THE STATUTES OF THE INTERNATIONAL CRIMINAL COURT

STATEMENT OF MOTIVES

The present draft legislation aims to integrate the norms of the Statute of the International Criminal Court into Congolese applicable law following the ratification of March 30, 2002.

This draft foresees the adoption by this Court of the provisions of the penal code, penal code regulations of organization and judiciary competence, penal procedure, military justice and procedure before the Supreme Court of Justice.

It also organizes judicial cooperation between Congolese institutions and the International Criminal Court.

Five titles form the outline of the present law.

The first title, relative to general provisions, states the rules and basic principles of the draft legislation.

In fact, aside from the reaffirmation of a certain number of fundamental principles of our law such as the conformity of sentences and the applicable law, that of the non-retroactivity of the law, of the individual responsibility for crimes and their sentences, or of the strict nature of all interpretation of criminal law, the present draft legislation is innovative in that it increases the legal criminal age to eighteen, provides for the irrelevance of the official capacity of the accused, restates the universality of the competence of the Congolese judge for this type of infraction, organizes the motives for criminal exoneration and reaffirms the rules of criminal involvement.

The second title which pertains to infractions and their repression, states the contents of the infractions as well as their respective rulings.

Thus, the crime of genocide as intentional destruction of all or a part of a group by nationality, race, religion, or ethnicity is punishable by life imprisonment.

As for crimes against humanity, they are punishable by degree, from sentences of five years to life imprisonment.

They consist of certain behaviors which include, in the case of a generalized attack or a systematic attempt on a civil population, attempts on the lives or well-being of human beings or the infliction upon them of cruel, inhumane or degrading treatment.

War crimes in violation of laws and customs of war are also repressed.

Such is it with violations of basic international rules of human rights which insure the protection of certain categories of peoples and goods, those which proscribe resorting to prohibited methods and means of combat.

Depending on their severity, these acts are punishable by sentences of six months to life imprisonment.

The title contains rules relative to organization and judicial competence, as well as penal procedure.

Accordingly, the present draft legislation innovates by attributing to the Supreme Court of Justice the competence to recognize, to the first and second degree, crimes it foresees and punishes.

Thus, the judiciary section of the Supreme Court of Justice would decree first degree, its decision having been made before the same Court, with all sections in attendance, to meet the requirement of the ICC to establish the right of appeal to which the accused is entitled.

As for the fourth title, it regulates the cooperation of the Democratic Republic of the Congo with the International Criminal Court.

It is important to note that the International Criminal Court does not possess attributes of a jurisdiction within a State as it holds no territories, much less a police force to carry out its measures.

As such, the Office of the Public Prosecutor of the Republic has been established and charged with cooperation with the ICC. Thus, all requests of cooperation with this Court, along with relevant required documents, are sent to the Court by diplomatic pouch, through INTERPOL, or any competent regional organizations of that nature.

In this manner, the Attorney General of the Republic receives a request to arrest or detain someone, researches the case, orders the arrest and eventually proceeds to gather evidence.

The present draft of legislation recognizes the prerogative of the Attorney General of the Republic to hand over a suspect to the International Criminal Court, subject to the right of appeal of the accused before the Supreme Court of Justice presiding over preventive detention. Likewise, he can release the detainee if the relevant required documents are not transmitted within sixty days of the arrest.

Also within the domain of cooperation between the Democratic Republic of the Congo and the International Criminal Court, is the carrying out of the punishment and reparations.

Regarding the carrying out of punishment, latitude is given to the Democratic Republic of the Congo to require the individuals condemned by the International Criminal Court to serve the terms of their sentence in its prisons.

This draft grants the “Tribunal de grande instance” of Kinshasa/Gombe the power to authorize the execution of punishment by fines, confiscation, or decisions relative to sentences pronounced by the International Criminal Court.

The fifth title, devoted to final provisions, states that all subjects not legislated in the present draft are subject to the Congolese applicable law, to international customs, and to general principles of law.

Clearly, the objective of the draft of legislation is to ensure the proper implementation of the norms of the Statute of Rome within Congolese applicable law and above all, to ensure good administration of justice in accordance with the spirit and contents of said Statute.

* *
*

LAW

The Constituent and Legislative Assembly, the Transitional Parliament having been adopted;

The President of the Republic promulgates the law in the following terms:

Title I

General Provisions

Article 1

Purpose of the present law:

- to integrate the norms of the Statute of the International Criminal Court within criminal legislation; and as a result;
- to adapt the rules of organization and judiciary competence, of criminal procedure as well as the code of military justice;
- to organize judicial cooperation with the International Criminal Court.

Article 2

A person is not criminally responsible, by virtue of the present law, unless his behavior constitutes a crime at the time in which it was committed.

Article 3

Penalty exists and is it pronounced by virtue of the law alone.

Article 4

Criminal law is [subject to] strict interpretation.

In case of ambiguity, it is to be interpreted in favor of the defendant.

Article 5

No one is criminally responsible for violations committed before the entry into force of the law.

If the law applicable to a case is modified before the sentencing, the law most favorable to the defendant applies.

Article 6

Criminal responsibility is individual.

It is established according to the provisions of articles 21 to 23 of the penal code.

Article 7

No provision of the present law relative to criminal responsibility of the individual affects the responsibility of the of the States by International law.

Article 8

People under the age of eighteen at the time the crime they are accused of was committed, are not criminally responsible.

Article 9

The present law is applicable to all in like manner, with no distinctions made based on official capacity.

The immunities or rules of special procedures associated with persons of official capacity, by virtue of internal or international law, do not prevent the judge from exercising his/her competence with regards to the person in question.

Article 10

Unless otherwise provisioned, no one is criminally responsible nor can he be punished for any crime under the present law, unless the crime is committed with intent and cognizance.

Intent exists under present law when:

1. with respect to a behavior, the person knows how to adopt that behavior;
2. with respect to a consequence, a person knows how to provoke that consequence or is aware it will occur with the normal course of events.

Cognizance exists according to present law, when a person is conscious that a circumstance exists or that a consequence will occur with the normal course of events. « cognizance » and « knowledge of the consequences » are interpreted as a result.

Article 11

Besides other reasons for the exoneration of criminal responsibility set forth in the Statute of the International Criminal Court, no one is criminally responsible if, at the time of the behavior in question:

- a. he suffered from a mental illness or deficiency that prevented him from understanding the unlawful character or nature of his behavior, or from having the ability to control it in accordance with the law.
- b. he was in a state of intoxication that prevented him from understanding the unlawful character or nature of his behavior, or from having the ability to control it in accordance with the law, unless the intoxication was involuntary and in circumstances under which he knew, due to his intoxication, he would risk behavior unlawful according to the Statute of the International Criminal Court, or if he had no notion of this risk.
- c. he behaved reasonably and in self-defense, in defense of another, or in the case of war crimes, in defense of property essential for his survival or the survival of others or essential to accomplishing a military

mission, against an imminent and unlawful use of force, in a manner proportionate to the impending danger to him or others or to the protected property. A person having participated in a defensive operation lead by armed forces does not in itself constitute grounds for excluding criminal responsibility in this context.

- d. his alleged behavior, constituting a breach of the relevant Statute of the International Criminal Court, was adopted under threat of imminent death or serious, continuous or imminent attack of his person or of others, and if he acted by necessity and within reason to avoid this threat, on the condition that he had no intention of causing greater damage than that which was being avoided. This threat could be:
 1. carried out by others
 2. constituted by circumstances independent of his will

Article 12

The judge pronounces whether the grounds for excluding criminal responsibility according to the Statue of the International Criminal Court are applicable to the case in question.

During the trial, the judge may also take into consideration the grounds for excluding criminal responsibility according to internal law.

Article 13

A mistake of fact is not grounds for excluding criminal responsibility unless it removes the moral element of the infraction.

A mistake of law bearing on the question of knowing whether a given behavior constitutes an infraction according to the present law is not grounds for excluding criminal responsibility. Nevertheless, a mistake of law may be grounds for excluding criminal responsibility if it removes the moral element of the infraction or if it raises article 14 of the present law.

Article 14

An infraction according to the present law, having been committed under orders of a government or a superior, military or civilian, does not exonerate the person having committed the infraction, of his criminal responsibility unless:

- a. the person was legally obligated to obey the orders of the government or superior in question;
- b. the person did not know that the order was illegal;

c. the order was not manifestly illegal

Article 15

The order to commit genocide or a crime against humanity is reputedly and manifestly illegal.

Article 16

All hierarchically superior military or civilian who fails to prevent his subordinate from committing an act unlawful by the present law or who fails to restrain his subordinate who has committed the crime is punished as the author of the act committed by the subordinate.

Whoever exercises an effective power of command or direction over a group as well as an effective power of control is likened to a superior in the military hierarchy.

Whoever, in a civil organization or an enterprise, exercises an effective power of direction or control is likened to a superior in the civilian hierarchy.

Article 17

The crimes and penalties under the present law cannot be prescribed.

They are not subject to amnesty or pardon.

Article 18

Infractions under the present law are punishable even when committed outside of the country or even when they present no ties to Congolese territory.

Title II

Violations and their suppression

Chapter 1 of Crimes of genocide and crimes against humanity

Section 1

Crimes of genocide

Article 19

Punishable by a sentence of life imprisonment is whomsoever, with the intention to destroy all or a part of a group based on nationality, race, religion or ethnicity:

1. kills one or several members of the group
2. inflicts serious attacks on the physical or mental well being of members of the group, namely partial or complete loss of vision, sense of smell, of hearing, the ability to speak or to procreate, the loss of a limb or its use, serious and permanent disfiguration, infirmity, paralysis, mental or physical handicap;
3. subjects the group to living conditions which will cause partial or total physical destruction;
4. imposes measures aiming to prevent births within the group;
5. forcibly transfers a child from one group to another

Section 2: Crimes against humanity

Article 20

Punishable by a sentence of life imprisonment is whomsoever, in the context of a generalized or systematic attack launched against a civil population:

1. kills one or more persons
2. subjects a population, with the intention to destroy all or a part of it, to conditions which will bring about the destruction of all or part of that population.

Article 21

Sentenced to twenty-five years of imprisonment is whomsoever, in the context of a generalized or systematic attack launched on a civil population:

1. practices the commerce of human beings, particularly women and children, or reduces a person to slavery by any means;
2. proceeds to forcibly deport or transfer a person, by expulsion to another State or by any other constraining measures;
3. tortures a person placed under his guard or over whom he exercises his control in all other manners, by inflicting serious attacks upon his physical or mental well being, going beyond the consequences of the sanctions admissible by international law;
4. sexually abuses or rapes a person, forces a person into prostitution, removes a person's ability to procreate or detains a woman impregnated by force with the intention of influencing the ethnic composition of a population;
5. provokes the disappearance of a person with the intention of removing him from the protection of the law for a prolonged period:
 - a. by kidnapping or illegally depriving him of his liberty as granted by order of consent of a State or political organization, without giving out, immediately following a request to do so, information as to the whereabouts or well-being of the captive;
 - b. by refusing, with orders or consent given by a State or political organization or in violation of a judicial obligation, to provide immediate information as to the whereabouts and well-being of a person held captive under the conditions "indiquées sous le littera", or provides false information.

Article 22

Sentenced to twenty-five years of imprisonment is whomsoever, in the context of a generalized or systematic attack launched on a civil population:

1. inflicts serious attacks on a person's physical or mental well-being, attacks like those aimed at in article 19.2 in particular
2. illegally deprives a person of his freedom;
3. persecutes an identifiable group or community by depriving him/her of the benefits of fundamental human rights or by greatly restricting the application of those rights for political, racial, national, ethnic, cultural, religious or sexist reasons, or for other criteria recognized as inadmissible by the general rules of international law.

Article 23

Whosoever commits a crime provided in article 20.1 in the context of an institutionalized régime of systematic oppression and domination of one racial group over another, incurs a criminal sentence of at least five years, unless events are liable to more severe penalty with the application of articles 19.1 and 20.1.

Chapter 2: War crimes

Section 1: War crimes against persons protected by humanitarian law

Article 24

Persons protected by international humanitarian law during an armed conflict are:

1. persons protected under the Geneva Convention and the additional Protocol I, in particular the wounded, the sick, the ship wrecked, prisoners of war and civilians;
2. the wounded, the sick, the ship wrecked and those people who are not directly participating in the hostilities and who find themselves under the power of the opposite party;
3. the members of armed forces and combatants of the opposite party who have put down their weapons or who, for any other reason, no longer have the means with which to defend themselves.

Article 25

Whosoever kills a person protected by international humanitarian law during and armed international or non-international conflict, is sentenced to life imprisonment.

Article 26

Punishable by a criminal sentence of five to twenty years is whosoever:

1. takes hostage a person protected by international humanitarian law;
2. treats in a cruel or unusual manner a person protected by international humanitarian law by inflicting serious attacks upon the person's physical or mental well-being or serious physical or mental suffering, namely by torture or mutilation;
3. sexually abuses a person protected by international humanitarian law, forces that person into prostitution, removes that person's ability to

- procreate or detains a woman impregnated by force with the intention of influencing the ethnic composition of a population;
4. proceeds to forcefully enlist or enroll children under the age of eighteen into armed forces or armed groups or makes them participate in the hostilities.

Article 27

Punishable by a criminal sentence of two to ten years is whosoever:

1. proceeds to forcibly deport or transfer a person protected by international humanitarian law, by expulsion to another State or territory or by using any other coercive measures;
2. pronounces or executes a serious penalty, namely the death penalty or a penalty depriving liberty, on a person protected by international humanitarian law and having withheld trial by regular and impartial judicial procedure with the requisite judicial guarantees in accordance with international law;
3. exposes a person protected by international humanitarian law to mortal danger or serious hazards to his health:
 - a. by performing experiments on that person, who did not voluntarily or expressly give prior consent, that are neither beneficial to the health nor in the person's best interest;
 - b. by removing tissue or organs from that person with the intention of transplanting them, unless this removal is for therapeutic reasons in accordance with generally recognized principles of medicine and if that person voluntarily and expressly gave consent beforehand;
 - c. by applying treatments to that person that are not recognized in the field of medicine, that are not beneficial to the health and for which prior consent was not voluntarily and expressly given.

Article 28

Whosoever treats a person protected by international humanitarian law in a humiliating or degrading manner, is punishable by a criminal sentence of a maximum of one year.

Article 29

Whosoever during an international armed conflict, wounds a member of the armed forces or a combatant from the opposite camp who has given himself up

unconditionally or who is outside the lines of combat, is punishable by a criminal sentence of a maximum of three years.

Article 30

Punishable by a criminal sentence of two to five years, is whosoever, in the context of an armed international conflict:

1. illegally detains a person protected by international humanitarian law;
2. proceeds to, as a member of an occupying force, transfer to an occupied territory a part of the civilian population to which he belongs;
3. obliges a person protected by international humanitarian law, by force or by threat, to serve in the armed forces of the enemy;
4. obliges, by force or by threat, a member of the enemy party to participate in war operations against his own country.

Article 31

If the perpetrator provokes the death of a victim by committing an act unlawful according to articles 25 to 30 of the present law, the penalty is life imprisonment.

Section 2: Crimes of war against property and other rights

Article 32

Punishable by a criminal sentence of one to ten years is whosoever, in the context of armed international or non-international conflict, pillages or destroys, appropriates or requisitions, for reasons unrelated to the exigencies of an armed conflict, property of the opposing party while in control of their camp.

Article 33

Punishable by a criminal sentence of one to ten years is whosoever, in the context of an armed international conflict, ordains the rights and beliefs of all or a part of the members of the opposing party to be abolished or suspended or to no longer be recognized in a court of law.

Section 3: War crimes against humanitarian operations and emblems

Article 34

Punishable by a criminal sentence of six months to two years is whosoever, in the context of an armed international or non-international conflict:

1. leads an attack against persons, installations, supplies, units or vehicles belonging to a humanitarian aide or peace-keeping mission in conformity with the United Nations Charter, so long as they have the protection guaranteed by international humanitarian law to civilians and to civilian property;
2. leads an attack against persons, buildings, sanitary units or means of transportation bearing the sign (insignia) of protection of the Geneva Convention.

Article 35

Punishable by a main sentence of five to twenty years is whosoever, in the context of an armed international or non-international conflict, abuses the use of the distinctive signs (insignia) provided by the Geneva Convention, of the parliamentary pavilion or of the flag, of military uniform or the uniform of the enemy or the United Nations, and thereby causing the death or serious wounding of a person.

Section 4: War crimes using methods forbidden when conducting war operations

Article 36

Punishable by a criminal sentence of five to twenty years is whosoever, in the context of an armed international or non-international conflict:

1. leads with military means, and in full knowledge of the consequences, an attack against civil population or against individual civilians who are not directly participating in the hostilities;
2. leads with military means, and in full knowledge of the consequences, an attack against civilian property protected by international humanitarian law, namely buildings devoted to culture, education, art, sciences or public service, historical monuments, hospitals, places where groups of sick and wounded are assembled, cities, villages, undefended housing or

buildings or demilitarized zones as well as installations or equipment containing dangerous substances;

3. launches a military attack intended to kill or wound civilians or to damage civilian property to a degree disproportionate to the military advantage gained;
4. uses a person protected by international humanitarian law as a shield to prevent the adversary from leading military operations designed to obtain certain objectives;
5. uses as a war tactic a procedure consisting of starving civilians by depriving them of essential objects or by interfering with deliveries of aid;
6. orders or threatens, as a military chief to “commettre le déni de quartier”;
7. kills or wounds by treachery a member of the armed forces or a combatant of the opposition.

Article 37

If by an act unlawful according to points 1 through 6 of the preceding article, the perpetrator provokes the death of a civilian or of a person protected by international humanitarian law or causes that person serious injury, he incurs a criminal sentence of ten to twenty years;

If the perpetrator voluntarily causes death, he incurs a criminal sentence of life imprisonment.

Article 38

Punishable by a criminal sentence of one to five years is whosoever, in the context of an armed international conflict, launches an attack hoping to cause serious, wide-spread and long-lasting damage to the natural environment, disproportionate to the military advantage gained.

Section 5: War crimes using methods forbidden when conducting war operations

Article 39

Punishable by a criminal sentence of life imprisonment is whosoever, in the context of armed international or non-international conflict, makes use of poison or

poisoned weapons, of biological, chemical or other prohibited weapons, bullets whose casings do not fully cover the center or that are grooved or notched.

Title III

Rules of organization, of judicial competence and of penal procedure

Article 40

The violations foreseen under the present law “relèvent de la compétence matérielle” of the Supreme Court of Justice regardless of their perpetrators.

The judicial section of the Supreme Court of Justice degrades the first degree.

Appeals are formed before the Supreme Court of Justice, all sections present.

Article 41

The Supreme Court of Justice is bound by article 54 first paragraph of the code of penal procedure.

Article 42

The preventive detention of persons wanted for violations of the Statute of the International Criminal Court is governed in accordance with articles 45 to 47 of the code of penal procedure.

The wanted person is assisted at all stages of instruction by an appointed council.

Article 44

The judge superlatively rates all evidence submitted to him.

Title IV: Cooperation with the International Criminal Court

Chapter 1: Judicial cooperation

Article 44

The Office of the Public Prosecutor of the Republic is charged with cooperation with the International Criminal Court.

It cooperates fully with the International Criminal Court in investigation and apprehension carried out for crimes bearing on its competence, in conformity with procedures set forth by national legislation and the provisions of the Statute of the International Criminal Court.

Article 45

The requests for cooperation coming from the International Criminal Court are addressed to the Office of the Public Prosecutor of the Republic, accompanied by all relevant and required documentation.

They are transmitted to this office by diplomatic pouch. They may also be transmitted by INTERPOL or other regional organizations of that nature.

In case of emergency, the requests can be directly transmitted by any means in the form of certified copies. The originals are then transmitted as described in the above paragraph.

Article 46

Requests of cooperation are handled by the Office of the Public Prosecutor of the Republic for the entire national territory, in the presence of, case pending [cas échéant], the prosecutor of the International Criminal Court or the delegate thereof, or by all those mentioned in the request of the Court.

Article 47

The minutes from the carrying out of these requests are addressed to the International Criminal Court via diplomatic pouch.

In case of emergency, certified copies of the minutes can be addressed directly and by any means to the Court. The originals are then transmitted as described in the above paragraph.

Article 48

When faced with a request of the International Criminal Court that raises difficulties or may interfere with or prevent the execution of that request, the Office of the Public Prosecutor of the Republic consults, without delay, the International Criminal Court in order to solve the difficulties in question.

Article 49

When denying a request of the International Criminal Court, the Office of the Public Prosecutor of the Republic makes known its reasons, without delay, to the Court or to its Prosecutor, depending on the case.

Chapter 2: Arrest and delivery of a person

Article 50

Requests from the Court of arrest and delivery are made to the Office of the Public Prosecutor of the Republic in the manner described in article 45.

Article 51

The Office of the Public Prosecutor of the Republic responds to all arrest and delivery requests according to the provisions of Chapter 9 of the Statute of the International Criminal Court, the Office of the Public Prosecutor of the Republic may adjourn the carrying out of the request until such time as it has been decreed.

Article 52

When the competence of the International Criminal Court is contested in accordance with articles 17 and 19 of the Statute of the International Criminal Court, the Office of the Public Prosecutor of the Republic may adjourn the carrying out of the request until it is decreed.

Article 53

When the request is approved, the Office of the Public Prosecutor of the Republic engages the research and orders the arrest. Objects and valuables are seized at the time of arrest if they can be used as evidence in an open trial by the International Criminal Court or if they bear any relevance to the crime.

Article 54

After arrest, the Office of the Public Prosecutor of the Republic issues an arrest warrant.

The warrant includes:

- a. a description of the person wanted for arrest and the charges against him;
- b. mention that the delivery of the person is requested by the court
- c. the indication of the rights to recourse and to an attorney.

When serving the warrant for arrest and delivery, the authority should verify that the person is in fact the same person described in the warrant. The authority states conditions of delivery; listens to the personal situation and asks if there are any objections to how the warrant was served. The person's attorney may be present for this hearing.

The Office of the Public Prosecutor of the Republic orders incarceration of the person wanted for arrest.

Article 55

The warrant for arrest and delivery can be appealed before the Supreme Court of Justice, presiding over matters of preventive detention, within ten days of the notification.

The wanted person may at any time solicit his release. The Office of the Public Prosecutor of the Republic, before pronouncing a decree, should ask and take into consideration the recommendations of the International Criminal Court. The decision of the Office of the Public Prosecutor of the Republic can be appealed before the Supreme Court of Justice, presiding over matters of preventive detention, within ten days of the notification.

Article 56

If no evidence is received, the Office of the Public Prosecutor of the Republic orders the release of the wanted person no later than sixty days after his arrest.

The released person, in conformity with the preceding paragraph, may again be arrested and delivered when the evidence is subsequently handed in to the appropriate authority.

Article 57

The Office of the Public Prosecutor of the Republic authorizes the delivery of the wanted person as well as the transference of the objects and valuables seized.

If the wanted person contests the competence of the International Criminal Court, the granting of authorization is adjourned until the Court makes its decision.

The Office of the Public Prosecutor of the Republic orders necessary delivery measures, in agreement with the International Criminal Court.

Article 58

The transit through national territory of a person transferred by the International Criminal Court is authorized by the Minister of Justice, in conformity with article 89 of the Statute.

Article 59

A person arrested provisionally under the conditions described in article 92 of the Statute of the International Criminal Court, may with the Court's consent, be delivered to the International Criminal Court before the appropriate authority has received the delivery request and the evidence required as per article 91 of the Statute.

Article 60

All persons detained on national territory may, with the Court's consent, be temporarily transferred to the International Criminal Court for identification or a hearing or for compliance with any other instruction.

The transfer is authorized by the Minister of Justice.

Chapter 3: The execution of penalties and amends

Article 61

When, in accordance with article 103 of the Statute of the International Criminal Court, the Democratic Republic of the Congo accepts to receive, on its territory, a person condemned by the International Criminal Court in order for that person to serve his prison term, the verdict pronounced comes immediately into effect upon transferal of the person, for the remainder of the term to be served.

Article 62

Upon arrival on the territory of the Republic, the transferred person is presented before the Office of the Public Prosecutor of the Republic who verifies his identity and draws up the minutes.

Upon seeing the papers of agreement between the Democratic Republic of the Congo and the International Criminal Court concerning the transfer of the person in question, the Office of the Public Prosecutor of the Republic orders immediate incarceration of the condemned.

Article 63

The condemned person may place a request for conditional release before the Office of the Public Prosecutor of the Republic.

The request is communicated to the International Criminal Court without delay, along with all pertinent documents.

The Court decides whether or not to grant the request of the condemned person.

Article 64

The execution of penalties of fines and confiscation or decisions concerning reparations ordered by the International Criminal Court are authorized by the “Tribunal de grande instance” of Kinshasa/Gombe, then seized by the Office of the Public Prosecutor of the Republic.

The execution is in conformity with procedure set forth by national legislation in good will and without prejudice of the rights of bona fide third parties.

The Tribunal is bound by the decision of the International Criminal Court. Nevertheless, it can take all the necessary measures allowing for the recuperation of the value of the products or goods ordered for confiscation by the Court, once it appears that the order of confiscation cannot be carried out.

Article 65

The authorization for execution granted by the Tribunal in virtue of the preceding article entails, according to the decision of the International Criminal Court, transferal of the product of the fines and goods or the product of their sale to that Court. They may also be given to victims, if the Court so decides and designates.

Article 66

Any dispute pertaining to the execution of the penalty of fines and confiscation is referred to the Court who will perform the necessary follow-up.

Title IV: Final provisions

Article 67

Matters relating to the Statute of the International Criminal Court which are not expressly legislated by the present law, are legislated in conformity with acting Congolese applicable law, the international custom or the general principles of law.

Article 68

The present law enters into force on the date of its promulgation.

Written in Kinshasa, the

Joseph Kabila
Major General