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ORGANIC ACT 18/2003 OF 10 DECEMBER ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT

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Traducción

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"El presente texto es una traducción de un original en castellano que no tiene carácter oficial en el sentido previsto por el apartado 1º artículo 6 del Real Decreto 2555/1977, de 27 de agosto, por el que se aprueba el Reglamento de la Oficina de Interpretación de Lenguas del Ministerio de Asuntos Exteriores y de Cooperación."

ORGANIC ACT 18/2003 OF 10 DECEMBER ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT

PREAMBLE

Further to the authorisation granted under Organic act 6/2000 of 4 October, on 25 October of that year Spain deposited an instrument dated 19 October ratifying the Statute of the International Criminal Court adopted in Rome on 17 July 1998. Pursuant to its Article 126, the Statute entered into force on 1 July 2002.

This act is structured along the same lines as Organic Act 15/1994 of 1 June on Cooperation with the International Criminal Tribunal for the Former Yugoslavia and Organic Act 4/1998 of 1 July on Cooperation with the International Criminal Tribunal for Rwanda. It builds on the direct enforceability, subject to positive enactment, of many of the provisions of the Rome Statute by courts in systems such as Spain's where treaties can be directly applied wherever allowed by the material content of the respective international regulations.

As a logical corollary to that approach, rather than redundantly reproducing those provisions of the Statute, the act merely regulates the specific organisational and judicial procedures to be followed for its application.

In addition, logically, to the Statute itself and this act, the sources cited include other applicable Spanish laws for matters not explicitly regulated hereunder. Likewise mentioned are any agreements that may be concluded between Spain and the International Court, as well as any relevant provisions of the latter's Rules of Procedure and Evidence, which are to be published in the Spanish *Official State Journal*.

The act is particularly meticulous in its regulation of so-called "active cooperation", reserving to the Government the exclusive power to report a situation that may fall under the International Court's competence, having regard to a series of foreign policy variables to be weighed by the body constitutionally responsible for foreign policy.

The act is likewise meticulous in its regulation of possible conflicts of jurisdiction between the International Court and Spanish courts, requiring

the Executive branch to claim Spanish jurisdiction wherever it has been or is being exercised. Nonetheless, the Executive's duties are nuanced in keeping with doctrine recently handed down by both the Second and Third Chambers of the national Supreme Court in connection with the duty or power to appeal the decisions of foreign courts. For cases in an initial stage when the International Court's Prosecutor claims jurisdiction, the Government is required to appeal to the Court's Pre-Trial Chamber. When that Chamber rules in favour of the International Court's jurisdiction, the Government is empowered to determine whether it conforms thereto or lodges an appeal with the that institution's Appeals Chamber.

One significant element of this act is the surrender of persons to the International Court on the grounds of the Court's request. This is an indispensable provision, for the Statute requires the accused to be present to be sentenced. Inasmuch as the provisions of the Statute and its Rules of Procedure and Evidence are highly detailed and concurrent with domestic Spanish law, they are not restated in the present act, which merely introduces supplementary stipulations.

Even more significantly, the act adopts the general principle established by the Statute on mandatory provisional arrest, in which interim release is the exception, although the judge's power of appraisal is not entirely eliminated by any strict or automatic application of these provisions. Rather, the competent national authority may review and evaluate the International Court's recommendations, pursuant to Article 59.4 of the Statute. The main characteristic of surrender to the International Court is the scant number of reasons for denying the request. In this regard the Statute deviates from classical extradition models, not even acknowledging *ne bis in idem* as grounds for denying surrender, without prejudice to the International Court's appraisal, as appropriate.

In addition to the core object of cooperation, i.e., surrender to the International Court, the act also regulates a number of questions on international judicial assistance. Given the precision with which the Statute regulates a wide variety of rogatory letters and other forms of cooperation, however, those matters are covered with the addition of certain minimal procedural provisions to Spanish domestic legislation.

The enforcement of the International Court's sentences is likewise regulated, respecting both the main penalties and the accessory consequences and reparation for the victims. In keeping with the aforementioned legislative approach, minimal rules are introduced, while reference is made to the applicability of the general rules and possible

future agreements with the International Court. Furthermore, in accordance with the authorisation granted under the sole additional provision to Organic act 6/2000 of 4 October, when ratifying the Statute, Spain formulated a declaration expressing its willingness to allow persons sentenced by the International Court to serve their sentences in Spain, subject to certain time limits.

Organisationally speaking, jurisdiction over cases involving passive cooperation, i.e., surrender to the International Court, is retained by the Supreme Court's National Civil and Criminal Court, while the jurisdiction for active cooperation, certain aspects of passive cooperation such as rogatory letters, notifications and other forms of cooperation, is held by other courts. Politically and administratively, relations with the International Court are conducted by the Ministry of Justice, without prejudice to the criterion of the Ministry of Foreign Affairs in matters of its competence.

Jurisdiction for surrender lies with the National Civil and Criminal Court's Chief Prosecuting Magistrate, whose decisions may be appealed to the Criminal Chamber for the reasons laid down in Article 790 of the Criminal Procedure Rules. Contrary to the model on which the 1985 Act on Passive Extradition is patterned, the role of the Executive Branch is limited, for the entire system rests on the judiciary, to the detriment of the so-called governmental stages. And in this exclusive judicial phase, the list of reasons for denying a request for surrender has been shortened.

Article 1. *Object and legal sources*

This organic act lays down the arrangements for cooperation between the Spanish State and the International Criminal Court in connection with the exercise of the jurisdiction and functions entrusted to the latter under the Rome Statute of 17 July 1998 (hereafter, the Statute) and its supplementary rules. It defines the competence of the various governmental bodies involved, as well as the domestic procedures to be followed in matters not addressed in the Statute or its supplementary rules, in particular the Rules of Procedure and Evidence and any specific cooperation agreements concluded between Spain and the International Court.

The organisational and procedural rules generally applicable will be valid for issues not covered hereunder.

Article 2. *Passive cooperation*

Spain will cooperate fully with the International Criminal Court (hereafter, the International Court) under the terms of the Statute and in particular its Article 86.

Article 3. *Active cooperation*

Domestic courts and the Department of Public Prosecutions may submit requests for cooperation to the International Court through the Ministry of Justice, where deemed necessary in the framework of proceedings underway in Spain, in the cases and under the conditions laid down in Article 93.10 of the Statute.

Article 4. *Competent authorities*

Application of this act will be incumbent on the following authorities:

- a) the Government
- b) the Ministry of Justice
- c) the Ministry of Foreign Affairs in the cases envisaged hereunder and wherever foreign policy is involved
- d) the Ministries of Defence and the Interior, when areas of their concern are affected by cooperation
- e) ordinary jurisdiction courts and in particular, the National Civil and Criminal Court
- f) military courts and in particular the Chief Central Military Court
- g) the Department of Public Prosecutions.

Article 5. *Representation and defence*

1. Spain's representation and defence before International Court bodies will be incumbent upon the members of the Corps of State Attorneys, whose instructions will be issued jointly in each case by the Ministries of Justice and Foreign Affairs. Where the proceedings affect matters of concern to some other ministry, that department will be heard prior to issuing instructions.

2. When recommended by the Chief State Attorney, the Government may, for exceptional reasons, decide to appoint ad hoc counsel for specific International Court proceedings. In the provision of his services, the person so appointed will assume the functions of a State Attorney and will be bound by the provisions governing fulfilment thereof.

Article 6. *Bodies responsible for relations and consultation with the International Court*

1. The Ministry of Justice is exclusively entrusted with liaising between the International Court and the domestic courts and Department of Public Prosecutions, without prejudice to the competence of the Ministry of Foreign Affairs.

2. The Ministry of Justice will likewise be responsible for conducting consultations with the International Court in the cases envisaged in the Statute, subject to informing the Ministry of Foreign Affairs prior to each consultation. Where consultations affect matters lying within the competence of the Ministries of Interior or Defence, the Ministry of Justice will ask these departments to prepare their respective reports.

When in the judgement of the Ministry of Foreign Affairs, the consultation refers to issues of foreign policy, competence will lie with that Ministry, the Ministry of Justice and any other ministries concerned.

Article 7. *Request to the International Court Prosecutor to undertake an investigation*

1. The Government, in the person of the Council of Ministers acting on a joint proposal by the Ministers of Foreign Affairs and Justice, is the sole power authorised to refer a situation to the International Court Prosecutor, further to the provisions of Articles 13(a) and 14 of the Statute. As appropriate, in accordance with Article 53.3(a) of the Statute, it may also apply to the Pre-Trial Chamber to urge the Prosecutor to reconsider his decision not to proceed.

2. Claims or complaints lodged with a domestic court or the Department of Public Prosecutions or requests filed with a ministry in connection with events occurring in other States whose alleged authors are not Spanish citizens and whose prosecution may lie within the International Court's jurisdiction, will not be admitted. Rather the institution concerned will simply inform the claimant or applicant that he may take his case directly to the International Court Prosecutor, who may conduct an investigation, without prejudice to adopting any necessary initial urgent measures under his jurisdiction. Nor will Spain's courts or its Department of Public Prosecutions proceed on their own initiative in such cases.

3. That notwithstanding, if the International Court Prosecutor fails to investigate the situation or the International Court rules that the matter is inadmissible, the claim, complaint or request may be resubmitted to the respective Spanish institutions.

Article 8. *Application to the International Court Prosecutor for deferral*

1. The Ministry of Justice may be informed by the International Court Prosecutor of the initiation of an investigation further to Article 18.1 of the Statute respecting offences which, having been committed on Spanish soil or allegedly perpetrated by Spanish citizens, may lie within Spanish jurisdiction. In such cases, the ministry will apply to Spain's Chief National Prosecutor without delay for information on the existence of criminal

proceedings underway or concluded and related to the events under investigation, and on the jurisdiction or otherwise of Spanish courts in connection therewith.

2. When the information furnished by the Chief National Prosecutor indicates that jurisdiction has been or is being exercised in Spain or, as a result of the notification received, Spanish authorities are conducting an investigation, the Ministers of Justice and Foreign Affairs, within no more than 20 days of the date of receipt of the International Court Prosecutor's notice, will raise a joint proposal to the Council of Ministers to defend Spanish jurisdiction and request deferral from the International Court Prosecutor under the terms of Article 18.2 of the Statute.

3. Implementation of the Council of Ministers' decision will be incumbent upon the Ministry of Justice, which will formulate a request for deferral and take all other procedural steps laid down in the Statute in this regard.

4. The Ministry of Justice will reply with all due speed to any request for information received from the International Court Prosecutor on the status of criminal proceedings deferred to and underway in Spain, obtaining such information from the Chief National Prosecutor or directly from the court trying the case. The information will be forwarded to the Prosecutor, specifying the limits to its use established by the authorising court.

5. When, further to the information provided by Spain's Chief National Prosecutor pursuant to item 1, no jurisdiction has been or is being exercised and no investigation underway in Spain, the Ministry of Justice will notify the International Court Prosecutor thereof without delay.

Article 9. *Challenges to the jurisdiction of the International Court or the admissibility of the case*

1. Further to the provisions of Articles 17 and 19 of the Statute, when a case has been dismissed, tried or ruled on by, or is underway in, Spanish courts, the Government, in the person of the Council of Ministers acting on a joint proposal by the Ministers of Justice and Foreign Affairs, is the sole power authorised to challenge the International Court's jurisdiction or its decision on the admissibility of the case. The Government's decision to so proceed will empower the Ministry of Justice to lodge the challenge.

2. Such challenge will be formalised as swiftly as possible before the International Court initiates the trial and, exceptionally, upon initiation or at some later time, although in the third case on the sole grounds of the existence of *ne bis in idem* in Spain.

Article 10. *Deferral of Spanish jurisdiction to the International Court*

If, despite the request for deferral raised to the International Court Prosecutor under Article 8 of this act or the challenge to the International Court's jurisdiction or decision on the admissibility of the case pursuant to Article 9, the respective International Court chamber authorises its Prosecutor to proceed with the investigation or maintains its jurisdiction, the Spanish court will defer the case to the International Court and forward any proceedings requested thereby.

Article 11. *Arrest*

1. When a person is arrested in fulfilment of an International Court order for provisional arrest or arrest and surrender, the arresting authority will immediately notify the Ministry of Justice and the National Civil and Criminal Court's Chief Prosecuting Magistrate accordingly. The person arrested must be brought to the Chief Prosecuting Magistrate without delay and within no more than 72 hours after his arrest.

2. Within 72 hours of being brought to the Chief Prosecuting Magistrate, the accused will be examined thereby in the presence of counsel and, as appropriate, an interpreter, and the Department of Public Prosecutions will likewise be heard by the magistrate. After verifying the arrested person's identity, the content of the warrant for his arrest and the circumstances laid down in Article 59.2 of the Statute, the magistrate will inform him of the content of the warrant and of his right to apply for interim release.

3. When the International Court's order for arrest refers to a person serving a sentence delivered by Spanish courts or a third State from which he may have been transferred to Spain to serve it, the prison authority will notify the Chief Prosecuting Magistrate and the Ministry of Justice in advance of the date of the convict's release, which will be communicated to the International Court by the Ministry of Justice.

Article 12. *Interim release*

1. If, in his appearance before the Chief Prosecuting Magistrate referred to in the preceding article, the accused applies for interim release, the magistrate will forward such application to the International Court through the Ministry of Justice, specifying the time limit for receiving its recommendations, which will not be less than 20 days. In the same ruling, the Chief Prosecuting Magistrate will order the person's provisional arrest for the time strictly necessary to receive the International Court's recommendations on the aforementioned request and rule accordingly.

2. After weighing the International Court's recommendations regarding the application for release received through the Ministry of Justice, or on the deadline for receipt thereof, the Chief Prosecuting Magistrate may decide to grant interim release where justified by urgent and exceptional circumstances. He will likewise ensure that all necessary safeguards are in place to enable Spain to fulfil its duty to surrender the person to the International Court, in particular any measures recommended by the latter.

3. If, within the time limit laid down in the Rules of Procedure and Evidence the International Court fails to forward the supporting material for arrest and surrender envisaged in Article 91, items 2 and 3 of the Statute, the Chief Prosecuting Magistrate may decide to grant interim release and establish other interim measures, which will remain in effect for no more than 180 days, without prejudice to re-arrest after the International Court's documents are received.

4. When interim release is granted, the Pre-Trial Chamber will be notified accordingly and reports will be submitted on the case as often as requested thereafter.

Article 13. *Simplified surrender*

1. If, during the appearance provided for in Article 11 of this act, the accused consents to his surrender to the International Court, the Chief Prosecuting Magistrate will proceed accordingly, with no need for further enquiry or submission of the material envisaged in Article 91 of the Statute.

The aforementioned provisions will apply if the accused consents to surrender respecting other acts not included in the International Court's request that may arise in the course of its proceedings. Where no such consent is granted, he will be surrendered only for the acts contained in the request, without prejudice to post-surrender proceedings pursuant to Article 101, item 2 of the Statute. Partial consent will not be admitted in any other circumstances.

2. The Chief Prosecuting Magistrate will send a copy of the order without delay to the Ministry of Justice, which will forward it immediately to the International Court with a request for instructions on surrender arrangements. The instructions received will be forwarded by the Ministry to the Chief Prosecuting Bench and the Ministry of the Interior for subsequent action.

3. The procedures set out in the preceding items will also be followed if, within 15 days of his appearance before the magistrate, the accused reverses his decision to take exception to his surrender.

4. During his appearance, the person arrested will be informed that once granted, consent to surrender is irrevocable.

Article 14. *Summons to appear issued by the International Court*

When instead of a request for arrest the International Court issues a summons to appear, the Ministry of Justice will forward such summons to the prosecuting magistrate with jurisdiction in the place of residence of the person summoned, who will be summoned personally and informed by the magistrate of the content of the International Court's instrument. The magistrate will also adopt the most suitable measures envisaged in Spanish procedural legislation, excluding detention, to ensure compliance by the person summoned. The Ministry of Justice will be notified of the measures taken and inform the International Court accordingly.

Article 15. *Surrender to the International Court*

1. Where a person not consenting to simplified surrender is arrested in fulfilment of a warrant for arrest and surrender issued by the International Court, the Clerk of the domestic court will record the date of receipt by the national Chief Prosecuting Bench of the supporting material envisaged in Article 91, items 2 or 3 of the Statute, depending on the case. A hearing will be scheduled for no more than 10 days thereafter, summoning the person sought, his defence counsel and an interpreter as appropriate, as well as the Department of Public Prosecutions. The International Court Prosecutor may send a representative to attend and intervene in such hearing.

Only allegations or evidence relating to the existence or otherwise of the requirements laid down in Article 91, items 2 or 3, will be admitted, without prejudice to the provisions of the following item.

2. When *ne bis in idem* is alleged, the Chief Prosecuting Bench will notify the Ministry of Justice accordingly and the ruling on surrender will be postponed until the Ministry of Justice consults the International Court as provided in Article 89.2 of the Statute. If, further to such consultation, the case is found to have been declared admissible by the International Court, the national Chief Prosecuting Bench will raise the suspension. The domestic prosecuting court may also suspend the trial as required to collect supplementary information.

3. Upon conclusion of the trial, the Chief Prosecuting Bench will rule on the request for surrender within three days.

4. If such ruling denies surrender, the person arrested may be held in provisional detention until a final ruling is delivered.

5. If the ruling is favourable to surrender, once it is final, the Ministry of Justice will receive immediate notification thereof and inform the International Court accordingly and request instructions for surrender arrangements. Upon receipt, such instructions will be communicated to Spain's Chief Prosecuting Bench and its Ministry of the Interior.

6. If the ruling denies surrender, once final, the person arrested will be released without delay and the Ministry of Justice notified to enable it to inform the International Court accordingly.

Article 16. *Competing requests*

1. When a request for surrender received from the International Court concurs with a request for extradition from a State, party to the Statute or otherwise, or a European order for arrest and surrender, the Spanish authorities will notify the International Court and the requesting State accordingly. The two proceedings will be conducted jointly by the national Chief Prosecuting Bench that was hearing the request for surrender.

2. The Chief Prosecuting Magistrate will not decide on surrender, but rather refer the two proceedings to the Criminal Chamber of the National Civil and Criminal Court, which will rule on the case in light of the Statute and, as appropriate, the treaty with the requesting State.

Where no treaty is in place, the International Court's request will take precedence.

3. If a case is declared inadmissible by the International Court and the request for extradition is likewise denied, the Ministry of Justice will inform the International Court accordingly.

Article 17. *Appeals*

1. The decisions handed down by the Chief Prosecuting Magistrate on the personal situation of the accused may be appealed to the Criminal Chamber of the National Civil and Criminal Court. Such appeals will be substantiated as envisaged in Article 766 of the national Criminal Procedure Rules and the respective decision will be forthcoming within 5 days.

2. The Chief Prosecuting Magistrate's ruling on surrender may be appealed to the Criminal Chamber of the National Civil and Criminal Court. Such appeals will be substantiated as laid down in Article 790 of the national Criminal Procedure Rules, although the text formalising the appeal may contain allegations relating to the violation of procedural rules or guarantees

or non-fulfilment of the requirements laid down in Articles 89.2, 91.2 or 91.3 of the Statute, depending on the case.

3. The decisions of the Criminal Chamber of the National Civil and Criminal Court on the aforementioned appeals will not be subject to appeal.

Article 18. *Temporary surrender to the International Court*

1. Where a decision favourable to surrender is delivered and the person to be surrendered is serving a sentence or on trial in Spain for acts other than those on which surrender is based, the Ministry of Justice will consult the International Court about temporary surrender, unless exception is taken thereto by the sentencing court or the prosecuting magistrate. The ruling consenting to surrender will specify the formula for the return of the accused to Spain and stipulate that the time during which he remains at the International Court's avail will count towards completion of his sentence.

2. The Ministry of Justice will forward the information on the transfer and subsequent return of the accused to the domestic courts concerned and the Ministry of the Interior.

Article 19. *Post-surrender proceedings*

1. If, after surrender, the International Court requests authorisation from Spain to try the accused for acts committed prior to surrender, the request will be forwarded to the Chief Prosecuting Magistrate or, for cases envisaged in Article 16 of this act, to the Criminal Chamber. These institutions will rule as appropriate further to Article 101, item 2 of the Statute. If the International Court's request is submitted without the plea of the person surrendered, the Ministry of Justice will apply to the International Court to receive the respective instrument, which will subsequently be forwarded to the domestic institution concerned.

2. When the person surrendered is released by the International Court for reasons other than completion of the sentence and the International Court proposes his transfer to another State, this proposal will be forwarded to the National Civil and Criminal Court's Chief Prosecuting Bench. The Ministry of Justice will grant Spain's consent to such transfer, unless the reason for the release is a declaration of inadmissibility by the International Court under the circumstances envisaged in Article 17.1(a) of the Statute. In that case, it will request the person's return to Spain.

Article 20. *Other forms of cooperation with the International Court*

1. Domestic courts and other authorities concerned will honour the International Court's requests for cooperation to facilitate proceedings under Article 93 of the Statute, except where prohibited by Spanish legislation.

In its mandatory acknowledgement of receipt of such requests, the Ministry of Justice will identify the domestic institution to which they are referred.

2. When the International Court's request may affect national defence or security or involve documents or information disclosed to Spain in confidence by another State or an international or intergovernmental organisation, the Ministry of Foreign Affairs, in conjunction with the Ministries of Justice, the Interior and Defence or other ministries concerned, will consult the State or organisation furnishing the information or documents and report to the International Court on the results of such consultations.

3. Any other difficulty around meeting the request will be the object of consultation between the Ministry of Justice and the International Court.

4. The purpose of the consultations will be to explain to the International Court the reasons for having to deny the assistance requested, consider other means by which or other conditions under which it may be provided, study its amendment or withdrawal and protect confidential or classified information.

5. If concurrent requests are received from the International Court and a State and obstacles to meeting both arise, the Ministry of Justice will consult the International Court and the State at issue to pass over or condition one of the requests and, further to Article 93.9(b) of the Statute, inform the International Court if the information, goods or persons referred to in the request are under the control of a third State or international organisation.

Article 21. *Persons subject to International Court jurisdiction*

1. Persons summoned as experts or witnesses to appear before Spanish courts in compliance with a rogatory letter issued by the International Court will be subject to the same duties and responsibilities as if they had been summoned to a trial conducted in Spain.

If they are to appear at the seat of the International Court, their appearance will be voluntary and the Ministry of Justice will ask the International Court to furnish information on the immunities for the person summoned and the

period of validity thereof. Such information will be forwarded to the party concerned and the expenses advanced by the Ministry of Justice. If the International Court forwards instructions on the rules applicable to guilty pleas, the witness will be furnished with the material and the respective domestic court will ensure that it is fully understood.

Consent will not be required when the person convicted by the International Court is serving a sentence in Spain, who will be temporarily transferred under the conditions established by the International Court.

2. When the request to appear at the seat of the International Court refers to a person arrested in Spain, the Ministry of Justice will instruct the court trying the case to ask such person if he consents to the transfer. If he does and the Spanish court of justice takes no exception thereto, the Ministry of Justice, in coordination with the International Court, will authorise the transfer and notify the court of justice and the Ministry of the Interior accordingly.

3. Persons traveling through Spain to appear before the International Court will be granted immunity.

4. When Spanish agents or officials are to appear before the International Court as experts or witnesses, the Ministry of Justice, in coordination with the ministries or levels of government concerned, will request their protection from the International Court.

5. Pursuant to an agreement with the International Court Registrar, the Ministry of Justice, in coordination with the Ministry of the Interior and, as appropriate, other governmental institutions, may consent to temporarily host traumatised victims or endangered witnesses.

Article 22. *Enforcement of sentences in Spain*

1. Further to possible agreements concluded between Spain and the International Court and to the sole additional provision of Organic act 6/2000 of 4 October, authorising Spain's ratification of the Statute of the International Criminal Court, the Ministry of Justice, after due consultation, will notify the International Court of the conditions under which Spain would be willing to accept the transfer of a person sentenced to prison, or the reasons that would prevent the country from accepting such transfer.

The Ministry of Justice will forward the information on the transfer to the Ministry of the Interior. Prison authorities must notify the respective prison judge of the convict's arrival within 24 hours thereof.

2. If a person convicted by the International Court is serving a sentence in Spain and the International Court proposes to enforce the sentence in another State, the Ministry of Justice will formulate any relevant comments.

3. The prison judges and the Ministry of the Interior will provide utmost support to International Court magistrates or officials coming to Spain to supervise the enforcement of sentences.

4. Prosecution by a Spanish prosecuting magistrate or bench of a convict who is serving an International Court sentence in a Spanish penitentiary for acts committed prior to his surrender to Spain will be subject to submission of notification and all relevant material to the Ministry of Justice for referral to the International Court. Proceedings may not be instituted until the International Court's decision is in hand. Extradition to another State will be subject to the same rules.

5. When a claim is lodged with the International Court's Appeals Chamber to reduce the penalty of someone serving a sentence in Spain, the Ministry of Justice will determine the suitability of intervening in the proceedings and, as appropriate, the terms of such intervention.

6. If a convict escapes, the Ministry of Justice will notify the International Court Registrar with all due speed and consult whether Spain should apply for extradition to the State of the convict's whereabouts or if the International Court will instruct such State to surrender him to Spain.

7. When the International Court's request for enforcement refers to a fine or confiscation order, the Ministry of Justice will forward the relevant material to the Chief National Prosecutor, who will call upon the court with jurisdiction to enforce the sentence and, as appropriate, deliver to the Ministry of Justice the property or sums obtained for transfer to the International Court.

Article 23. *Reparation measures*

1. Within the time limit specified by the International Court or as early as possible, the Ministry of Justice will submit its remarks on the issues posed by the International Court, including any relating to experts' opinions, and may call upon national competent authorities to provide any relevant information.

2. When the remarks refer to the attribution of reparation to an intergovernmental or international organisation, the Ministry of Justice will consult the Ministry of Foreign Affairs.

3. When enforcement measures must be adopted to implement the content of the International Court's communication, the procedures laid down in Article 22, item 7 of this act will be followed.

Article 24. *Amicus curiae interventions in Spain*

If Spain receives an invitation from the International Court to participate in *amicus curiae* capacity, the Ministry of Justice will consult the Ministry of Foreign Affairs to determine the suitability or timeliness of so proceeding and, as appropriate, establish the terms of such participation.

Article 25. *The trial and other proceedings in Spain*

If the International Court proposes to hold the trial or other proceedings in Spain, the Ministry of Justice, after consulting the Ministries of Foreign Affairs and the Interior and other competent authorities, will notify the International Court of its decision. Any non-jurisdictional issues in such proceedings will be subject to a specific agreement concluded with the International Court.

Additional Provision one. *The International Court's Rules of Procedure and Evidence*

The International Court's Rules of Procedure and Evidence and any amendments thereto will be published in the *Official State Journal*.

Additional Provision two. *Offences against the International Court's administration of justice*

1. The Ministry of Justice will submit any information requested by the International Court prior to the Court's decision on whether to exercise its jurisdiction.

2. Proceedings relating to such offences may only be heard in Spain when so requested by the International Court.

3. If the International Court defers to Spanish jurisdiction, the Ministry of Justice will refer the request to the National Civil and Criminal Court Prosecutor, if the offence was committed by a Spaniard abroad, or to the Chief National Prosecutor if committed in Spain.

4. The Ministry of Justice will inform the International Court of the outcome of the proceedings.

Additional provision three. *Military courts*

1. The references in this act to the Chief Prosecuting Bench and the Criminal Chamber of the National Civil and Criminal Court will be understood to apply as well to the Senior Central Military Court and the Chief Central Military Court, respectively, when the cooperation lies within the jurisdiction of the military.

In the same cases, reference to the Department of Public Prosecutions and to the prison judge will be understood to apply as well to the Military Prosecutor and the Military Prison Judge.

2. The provisions of Article 7, item 2 of this act will be understood to be without prejudice to the stipulations of the acts governing military jurisdiction relating to the permanent or temporary presence of Spanish military forces or units outside Spanish territory, nor will it affect the exercise of jurisdiction by the respective military courts.

Final Provision one. *Nature of this act*

The provisions of Articles 7, 8, 9, 10, 11, 12, 13 (except item 2), 15 and 21.3, additional provision 2 and additional provision 3, item 2 of this act are organic. All other provisions are ordinary and enacted in accordance with the provisions of Article 149, item 1, sub-items 3, 5 and 6 of the Constitution.

Final Provision two. *Entry into force*

This organic act will enter into force on the day after its publication in the Official State Journal.

I therefore order all Spanish citizens and authorities to honour and enforce this act.



GOBIERNO
DE ESPAÑA

MINISTERIO
DE JUSTICIA