

BELGIUM

Ministry of Justice

22 March 1996 - Law on the recognition of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda and cooperation with those Tribunals.

Albert II,

King of the Belgians,

To all those present now and in the future,

Greetings.

The Chambers have adopted and we sanction the following:

**CHAPTER I
General Remarks**

Article 1

This law settles a matter specified in Article 77 of the Constitution.

Art. 2

Pursuant to the provisions of this law, Belgium shall honour its obligation in respect of cooperation deriving from resolutions 808 (1993), 827 (1993) 955(1994) adopted by the Security Council of the United Nations according to Chapter VII of the Charter of the United Nations.

Art. 3

For the purposes of this law, the following terms shall designate:

- "Tribunal" - the International Tribunal established by the Security Council of the United Nations in its resolution 827 (199) of 25 May 1993 which is responsible for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia and the International Tribunal established by the Security Council of the United Nations in its resolution 955 (1994) of 8 November 1994 which is responsible for the prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such acts or violations in the territory of neighbouring States between 1 January and 31 December 1994.

- "Resolution 808 (1993)" - resolution 808 (1993) of 22 February 1993 adopted by the Security

Council of the United Nations;

- "Resolution 827 (1993)" - resolution 827 (1993) of 25 May 1993 adopted by the Security Council of the United Nations;

- "Resolution 955 (1994)" - resolution 955 (1994) of 8 November 1994 adopted by the Security Council of the United Nations;

- "Statute" - the Statute of the Tribunal adopted by the Security Council of the United Nations in resolution 827 (1993) and the one adopted by the Security Council of the United Nations in resolution 955 (1994);

- "Rules" - the Rules of Procedure and Evidence of the International Criminal Tribunal for the former Yugoslavia adopted on 11 February 1994 and the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda adopted on 29 June 1995;

- "Prosecutor" - the Prosecutor of the Tribunal and any person authorised by him or working under his authority to carry out the responsibilities devolving to him pursuant to the Statute.

Art. 4

The competent authorities shall extend to the Tribunal their full and complete judicial cooperation for any proceedings held in respect of breaches defined in Article 1 to 8 of the Statute of the Tribunal for the former Yugoslavia and Articles 2 to 4 of the Statute of the Tribunal for Rwanda in accordance with the provisions of the resolutions mentioned in Article 2 of this law and the provisions of the Statute, the Rules, and this law.

Art. 5

The Minister of Justice shall be the central competent authority for receiving requests for judicial cooperation from the Tribunal and for ensuring the appropriate follow through.

CHAPTER II Deferral to Belgian courts

Art. 6

When an application for deferral of the national courts has been submitted by the Tribunal in respect of an act falling within its jurisdiction, the *Cour de cassation*, at the request of the Prosecutor General and after having heard the person concerned, shall order the deferral of the Belgian court having the case before it after having verified that no mistake has been made as to the identity of the person in question.

Art. 7

The deferral order shall preclude continuation of the proceedings in Belgium without prejudice of the application of Article 8.

The deferral shall not constitute an obstacle to the right of the *partie civile* to request relief. The exercise of that right shall be suspended so long as the case remains pending before the Tribunal.

Art. 8

When, after the deferral of the Belgian court, the Tribunal indicates that the Prosecutor has decided not to issue an indictment, that the Tribunal has not confirmed it or that the Tribunal has declared itself incompetent, the *Cour de cassation*, at the request of the Prosecutor General, and after having heard the person concerned, shall decide on the procedure to be followed and, if relevant, shall return the case to the court, tribunal or investigating court having jurisdiction in the matter.

CHAPTER III

Judicial cooperation

Art. 9

The requests from the Prosecutor or orders of the Tribunal seeking measures for collection and production of facts which *inter alia* concern the identification and search for individuals, the gathering of testimonies, the production of evidence and the sending of documents and which are necessary for the investigation or proper conduct of the trial shall be implemented in accordance with the rules set forth by Belgian law.

The request of the Prosecutor or order of the Tribunal which includes a coercive measure shall be implemented by the investigating Judge in the venue where the measure is to be implemented.

Art. 10

The competent judicial authority to which the case has been referred shall inform the Tribunal of the date and place of the application of the requested measure. The Prosecutor or requesting Judge shall be authorised to be present when the measures are applied.

Art. 11

When, pursuant to the law of 16 June 1993 on punishment of serious breaches of the International Geneva Conventions of 12 August 1949 and Protocol I and II of 8 June 1977 Additional to those Conventions, proceedings are in progress before a Belgian court in respect of the acts which might fall within the competence of the Tribunal, the Tribunal shall be so informed by the Minister Justice.

CHAPTER IV

Arrest and Transfer

Art. 12

1 - The warrant of arrest issued by the Tribunal for a person on Belgian territory shall be enforceable by the *chambre du conseil* of the place of his residence or the place where he was found.

The *chambre du conseil* shall verify whether the acts alleged in the warrant fall within the jurisdiction of the Tribunal and whether there has been no mistake as to the person's identity.

Within twenty-four hours of receiving the order from the *chambre du conseil* which has refused to enforce the warrant of arrest of the Tribunal, the Prosecutor may appeal the decision before the indictment chamber which shall rule on the matter within eight days. The ruling shall be

enforceable.

Within twenty-four hours after deprivation of liberty, the decision enforcing the warrant of arrest of the Tribunal shall be served on the person concerned. The person shall have twenty-four hours from the service to enter an appeal before the indictment chamber.

The indictment chamber shall hear the person concerned within four days of this appeal and shall hand down its ruling within a maximum of eight days.

When the warrant of arrest of the Tribunal has been made definitively enforceable, the transfer of the arrested person must occur within three months.

2 - The request for provisional arrest presented by the Public Prosecutor in emergency cases shall be implemented on the basis of a warrant of arrest issued by the investigating Judge of the venue where the person named in the warrant has his residence or where the person was found.

Within five days of the issuance of the warrant of arrest by the investigating Judges, the *chambre de conseil*, after hearing the person concerned and at the request of the Public Prosec, shall decide whether there are grounds for confirming the warrant. It shall verify whether the acts alleged in the warrant within the jurisdiction of the tribunal and whether there has been no mistake as to the person's identity.

Within twenty-four hours of the order of the *chambre du conseil* refusing to confirm the warrant of arrest issued by the investigating Judge, the Public Prosecutor may appeal before the indictment chamber. That chamber shall hand down its ruling within eight days of the appeal. The decision shall be enforceable.

The person concerned shall in all cases be released if a warrant of arrest issued by the Tribunal has not been served on him within three months from the service of the warrant of arrest of the Belgian investigating Judge.

If a warrant of arrest has been served within this time period, it must be made enforceable in accordance with the conditions of paragraph 1, and the decision shall be served on the person concerned within one month, failing which, he shall be released.

Art. 13

In accordance with the terms of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Government shall transfer the arrested person in accordance with the Rules of the Tribunal.

CHAPTER V Implementation of Sentences

Art. 14

In so far as Belgium is on the list of States which have informed the Security Council of the United Nations that they were prepared to receive convicted persons in order for them to serve their prison sentence, and in so far as a person convicted by the Tribunal has been transferred to Belgium for that purpose, the prison sentence shall be directly and immediately enforceable in Belgium.

Within twenty-four hours of his arrival at the place of incarceration assigned to him, the transferred person shall appear before the King's Prosecutor at the venue of the court of first

instance. The court shall verify his identity, make a record of what has been said and, in accordance with the original or an execution copy of the decision of the Tribunal, order the immediate incarceration of the convicted person.

CHAPTER VI
Entry into Force

Art. 15

This law shall enter into force on the day of its publication in the *Moniteur belge*.

Done in Brussels, this 22nd day of March 1996

By the King: Seal of the State:

The Minister of Justice The Minister of Justice

Stefaan De Clerk Stefaan De Clerk