

Greece (15 December 1998)

OFFICIAL TRANSLATION

No. 093.18/545

**STATE GAZETTE
HELLENIC REPUBLIC
FIRST VOLUME**

Issue no.279

December 17, 1998

LAW No. 2665

Enforcement of there resolutions bearing nos. 827/25.5.1993 and 955/8.11.1994, taken by the Security Council of the United Nations, by which two International Criminal Courts were established in order to try violations of the International Humanitarian Law that have taken place within the territories of the former Yugoslavia and Rwanda.

**THE PRESIDENT
OF THE HELLENIC REPUBLIC**

We herewith promulgate the following Law which was voted by the Parliament:

**First article
*Definitions***

1. By virtue of article 25 of the United Nations' Charter, which was ratified by means of the Emergency Law bearing no. 585/1945 (State Gazette, vol. 242 A'), the resolutions of the Security Council bearing nos. 827/25.5.1993 and 955/8.11.1994, by which two International Criminal Courts were established in order to try serious violations of the International Humanitarian Law, that have taken place within the territories of the former Yugoslavia and Rwanda respectively, are enforced by applying Chapter VII of the Charter.
2. The term "International Court" means the International Criminal Court mentioned in the resolutions bearing nos. 827/1993 and 955/1994 and the term "Charter" means the one mentioned in the Annexes of those resolutions.
3. The text of the resolutions bearing nos. 827/1993 and 955/1994, originally in English and translated into Greek, is as follows:

True translation from the Greek original document.

Athens, 06/02/99 The translator, Stefanos Tefos

Article 2
Scope of application

The provisions of the present Act apply to any person prosecuted for the offences set out in Articles 2-5 of the Statute of the International Tribunal for the former Yugoslavia and in Articles 2-4 of the Statute of the International Tribunal for Rwanda.

Article 3
Extension of the application of the Greek criminal laws

The Greek criminal laws will also apply to the offences set out in Articles 2-5 of the Statute of the International Tribunal for the former Yugoslavia and in Articles 2-4 of the Statute of the International Tribunal for Rwanda, irrespective of the law of the place where said offences were committed.

In this event, the victim is entitled to attend the proceedings as *partie civile*, under the provisions of the Code of Criminal Procedure.

Article 4
Non-bis-in-idem

No person shall be prosecuted before the Greek courts for an act for which he/she has stood trial before the International Court. In the event of criminal proceedings which have already been initiated, the court or the board will declare the prosecution inadmissible.

Article 5
Priority of the International Court

1. Should the International Court, or its Public Prosecutor, request the surrender of a person, against whom criminal proceedings have been initiated by the competent Greek authorities, the criminal prosecution will be declared inadmissible and the case will be referred to the International Court, provided :

a/ the accused is prosecuted by the International Court for the same act for which he/she is prosecuted in Greece, and

b/ the International Court has territorial jurisdiction and jurisdiction *ratione temporis*, under Article 8 of the Statute of the International Tribunal for the former Yugoslavia and Article 7 of the Statute of the International Tribunal for Rwanda.

2. The three-member Bench of the Court of Appeal of Athens rules on the identity of the person and the offence as well as on the territorial jurisdiction and the jurisdiction *ratione temporis* of the International Court. Its decision is subject to appeal before the Supreme Court, with the respective application of the provisions of Article 451 of the Code of Criminal Procedure.

Article 6
Concurrent Jurisdiction

The application for the surrender of a person who is already prosecuted before the Greek authorities is forwarded by the Minister of Justice to the Public Prosecutor of the Court of Appeal of Athens, who then introduces it before the three-member Bench of the Indictment Board of Appellate Judges which determines in the course of open proceedings whether the prerequisites of

the Fifth Article are met.

The accused is given fifteen days notice to express his/her opinions either in person or through his/her counsel.

An appeal may be filed before the Supreme Court against the decree of the Indictment Board of Appellate Judges.

The provisions of the Code of Criminal Procedure will apply to all other matters.

Article 7

The applications of the International Court for the surrender of persons accused for offences will be addressed to the Minister of Justice, who will then forward them to the Public Prosecutor of the Court of Appeal of Athens.

Should the International Court or its Public Prosecutor request the conduct of a judicial investigation, a special investigating Appellate Judge will be named for that purpose by the body administrating the Court of Appeal of Athens and charged with this task by the Public Prosecutor of the Court of Appeal.

The investigating Appellate Judge may also proceed, upon the consent of the Public Prosecutor of the Supreme Court, outside the limits of the district of the Court of Appeal in the frame of the judicial investigation or may assign the relevant duties to the ordinary investigating magistrate of the competent Court of First Instance.

The judicial investigation will be conducted according to the Greek law.

Article 8

The application for the surrender or for the conduct of a judicial investigation must be supported by the following documents at least:

1. Papers proving the accused's identity, such as an exact description of his/her features, a photograph, fingerprints or any other suitable means of evidence.
2. The arrest warrant, a concise description of the offence and any other documents required to substantiate adequate indications of guilt justifying an indictment.
3. Certified copies of the charges or the conviction, and the witnesses' depositions.

Article 9

The Public Prosecutor of the Court of Appeal of Athens, upon receiving the application, will forthwith order the arrest of the accused.

The accused, should he/she dispute his/her identity, is entitled to file an appeal before the Board within two working days of his/her arrest. The three-member Bench of the Indictment Board will hold an open session at the latest within fifteen (15) days of the date of the appeal and will pronounce its decision within ten (10) days.

The accused is given three days notice to appear before the Board.

Article 10

1. The Board following the questioning of the arrested person, should he/she appear in person, and upon hearing the submissions of the Public Prosecutor and the arrested person or his/her counsel,

will proceed to a reasoned decision on the application for said person's surrender, and will rule :

a/ on whether the arrested person is the same person whose surrender is requested,

b/ on whether the supporting documents required by the present law for the surrender have been submitted,

c/ on whether the offence attributed to the arrested person, or in the case of a conviction, the offence for which said person was found guilty is such as to allow, under the present law, said person's surrender.

2. The Board will also examine whether, on the basis of the official evidence produced, there are indications substantiating the charges attributed to the arrested person and will rule on whether such indications would permit said person's arrest and indictment in Greece, had the offence been committed on Greek territory. The Board may also appoint one of its members to proceed to the compilation of any evidence which may be of use, postponing the final decision for fifteen (15) days at the most. The provision of Article 449 para. 2 of the Code of Criminal Procedure will also apply in this case.

3. The person whose surrender is requested and the Public Prosecutor are entitled to file an appeal against the Board's final decision before the competent criminal chamber of the Supreme Court within three (3) days of the pronouncement of the decision. A report will be drawn up by the Secretary to the Court of Appeal in regard with the appeal.

4. The Supreme Court convenes and rules within ten (10) days, applying by analogy the provisions of Articles 448 and 450 of the Code of Criminal Procedure.

The Public Prosecutor of the Supreme Court takes care that the defendant be given at least three (3) days notice to appear before the court either in person or by proxy.

5. Should the Supreme Court approve the surrender, the relevant decision is enforced at the latest within one (1) month of the date of its pronouncement. In this case, the Public Prosecutor of the Court of Appeal submits the decision with the relevant case file to the Minister of Justice, who takes care of its enforcement.

6. If within three (3) months of the arrest, no final decision has been issued on the surrender, the arrested person will be set free.

Article 11

Summoning of witnesses and experts

Summons to witnesses and experts are forwarded by the International Court to the Ministry of Justice and served on the persons to whom they are addressed by the Public Prosecutor of the Court of First Instance of the place of said persons' residence.

Witnesses and experts summoned in the above described manner and failing to appear without justification, will be brought before the International Court by force, upon the latter's request to that effect, and will be surrendered to the Dutch authorities.

The provisions of Articles 224-228 of the Criminal Code will also apply in the case of the corresponding acts committed before the International Court.

Article 12

Supply of information to the Court

The competent Greek authorities will supply to the International Court criminal record certificates

and any other information requested for the needs of a criminal case, on the same terms this information is supplied to the Greek judicial authorities.

Article 13

1. Should the International Court determine Greece as the place where the penalty is to be executed, pursuant to Article 27 of the Statute of the International Tribunal for the former Yugoslavia and Article 26 of the Statute of the International Tribunal for Rwanda, the Minister of Justice, upon receiving the relevant notification, will forward the case file to the Public Prosecutor of the Court of Appeal of Athens, who will then introduce it before the three-member Bench of the Court for the recognition of the judgement and the adaptation of the penalty.

2. The International Court's judgement will not be recognized for the purposes of paragraph 1, if:

a/ it has not yet been declared enforceable,

b/ the act is not punishable under the Greek law,

c/ there is a case of *res judicata* on the basis of the Greek conviction.

3. The Court of Appeal will recognize the International Court's judgement and will convert the penalty involving deprivation of freedom :

a/ to an equal period of imprisonment, when said penalty is not in excess of five (5) years, and

b/ to an equal period of temporary or life incarceration, as the case may be, when said penalty is in excess of five (5) years.

4. The penalty of temporary incarceration cannot exceed a term of twenty-five (25) years.

The penalty will be executed according to the provisions of the Greek legislation.

Article 14

Pardon or Conversion of Penalty

Should the Minister of Justice find that there are reasons for pardon to be granted or for the penalty of a person serving a sentence in Greece, under Article 13 hereinabove, to be converted, the International Court will be notified and the relevant case file will be submitted before it.

Article 15

The present Act will come into effect as of its promulgation in the Official Gazette of the Hellenic Republic.

We hereby order that the present Act be promulgated in the Official Gazette of the Hellenic Republic and be enforced as a Law of the State.

Athens, 15 December 1998

THE PRESIDENT OF THE REPUBLIC

CONSTANTINOS STEPHANOPOULOS

**THE MINISTERS
OF FOREIGN AFFAIRS OF JUSTICE
TH. PANGALOS E. YIANNOPOULOS**

Certified and sealed with the Great Seal of the State

Athens, 15 December 1998

**THE MINISTER OF JUSTICE
E. YIANNOPOULOS**

True translation from Greek to English.

V. VOUTSELA, Translator for the Ministry of Foreign Affairs