



State cooperation with the ICC

Reana Bezić

The Faculty of Law, University of Zagreb

reana00@gmail.com

Why is the cooperation necessary?

- The International Criminal Court has no direct powers of enforcement and because of that it depends on national authorities
- It is essential for the effective working of the ICC that countries which have ratified the Roman Statute fully cooperate

States parties

- Basic requirements:
 - Article 86
 - obligated to 'cooperate fully' with the ICC in its investigation and prosecution of crimes within its jurisdiction
 - ICC can make requests to any state party for cooperation

States parties

- States parties have to ensure through their national law that all requires from the ICC are fulfilled
 - Article 88
 - Elimination of obstacles to cooperate in existing national procedures and ensuring full cooperation

States parties

- Assistance of the states parties:
 - Investigation and prosecution
 - Article 93
 - identifying and locating witnesses and things
 - taking evidence
 - questioning persons who are investigated or prosecuted
 - serving legal documents
 - facilitating voluntary appearance of witnesses
 - examining sites and exhuming graves
 - conducting searches and seizures
 - providing documents
 - protecting victims and witnesses
 - preserving evidence

States parties

- Assistance of the states parties:
 - Arrest and surrender
 - Article 59
 - ICC assists in locating of the accused
 - information enabling the identification of the person
 - documents needed to fulfil the national requirements of the surrender process
 - national courts need to ensure that the rights of the accused are respected
 - surrender the person as soon as possible

States parties

- Assistance of the states parties:
 - Extradition
 - National law cannot prohibit the extradition of the nationals
 - Article 102
 - Article 86 (already asks for full cooperation)

States parties

- Assistance of the states parties:
 - Other forms of cooperation
 - Article 75
 - reparation to victims
 - Article 70
 - offences against the administration of justice by the ICC

States parties

- Serving of the sentence
 - Detention facilities of the states parties
 - Consistent with the international treaty standards
 - States have no power in revising and changing sentences

States parties

- Postponement or denial of a request
 - State parties cannot postpone or refuse compliance on the grounds that their national law is inadequate
 - Ensure that, before Statute enters into force, that their national legislation provides for the procedures needed to cooperate with the ICC
 - Article 94
 - Permission to postpone if it interferes with an active investigation or prosecution
 - Length must be agreed with the ICC
 - Article 95
 - Pending the outcome of a challenge to admissibility

States parties

- Prejudice of national security
 - Article 72
 - Special circumstances allow states parties to deny requests for disclosure of information or documents
 - Consulting the ICC for alternative ways
 - *in camera*
 - *ex parte*
 - Assembly of States Parties and Security Council

Non-states parties

- Article 87
 - *ad hoc* agreement
- United Nations Security Council
 - threatening international peace and security

Thank you for your attention!