

Crimes Against Humanity Statutes and Criminal Code Provisions in Selected Countries

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MULTINATIONAL REPORT

CRIMES AGAINST HUMANITY STATUTES AND CRIMINAL CODE PROVISIONS

Argentina

Argentina ratified the Rome Statute of the International Criminal Court (Rome Statute) on November 2000.¹ The implementing legislation was adopted by Law 26200 of December 13, 2006. (BOLETIN OFICIAL [B.O.] Jan. 9, 2007, *available at* <http://www.infoleg.gov.ar/infolegInternet/anexos/120000-124999/123921/norma.htm>.)

Law 26200 adopts into domestic legislation the crimes that fall under the jurisdiction of the International Criminal Court (ICC) through the application of *renvoi* to the provisions of the Rome Statute. This is a way to avoid disparities that might be created by making a unilateral definition of the crimes. The Law provides for criminal sanctions that include imprisonment but does not include any provisions on reparation or rehabilitation of victims. It does include provisions on cooperation with the ICC regarding arrests, surrender, and judicial assistance in general.

Armenia

An English translation of the Criminal Code for Armenia (adopted on April 18, 2003) can be found at <http://www.legislationline.org/documents/section/criminal-codes> (last visited Apr. 28, 2010). It provides for the prosecution of crimes against humanity and war crimes, placing relevant provisions in specific sections of the Code (Chapter 34, arts. 384-397). The Code subjects to liability all individuals who commit a crime in the country's territory, and subjects its own nationals and residents to liability for crimes committed outside the country, if their act is considered a crime under the laws of Armenia or the country where the crime is committed (art. 15).

Australia

There are two federal statutes in Australia that refer to proceedings involving crimes against humanity:

- Criminal Code Act 1995 (Cth), *available at* [http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/5423704BFDAC4386CA2576EA00129CE7/\\$file/CriminalCode1995_WD02.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/5423704BFDAC4386CA2576EA00129CE7/$file/CriminalCode1995_WD02.pdf). The relevant provisions in this legislation were inserted by the International Criminal Court (Consequential Amendments) Act 2002, *available at*

¹ Rome Statute of the International Criminal Court (of July 17, 1998; entered into force on July 1, 2002), U.N. Doc. A/CONF.183/9*, United Nations Treaty Collection website, <http://untreaty.un.org/cod/icc/statute/rome.htm> (last visited Apr. 30, 2010).

[http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/640800730D340CE5CA256F7100563577/\\$file/0422002.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/640800730D340CE5CA256F7100563577/$file/0422002.pdf).

- International Criminal Court Act 2002 (Cth), available at [http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/FA56268B62FE5347CA256F7100563077/\\$file/0412002.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/FA56268B62FE5347CA256F7100563077/$file/0412002.pdf).

The Criminal Code Act 1995 provides that Australian courts can have jurisdiction in cases involving crimes against humanity, even if the offenses are also crimes within the jurisdiction of the International Criminal Court (Criminal Code Act 1995 § 268.1; *see also* International Criminal Court Act 2002, § 3(2)). The relevant offenses are set out in §§ 268.8 to 268.23 of the Code. Jurisdiction is available whether or not the offense was committed in Australia (*Id.* §§ 268.117(1) & 15.4). The Attorney-General must give permission for charges to be brought under these provisions (*Id.* §§ 16.1 & 268.121). There can be no double jeopardy where a person has already been tried for the same offense in the International Criminal Court (*Id.* § 268.118).

The International Criminal Court Act 2002 sets out the procedural requirements relating to Australia's cooperation with, and provision of assistance to, the International Criminal Court.

Austria

Austria cooperates with the International Criminal Court under a Federal Act on Cooperation with the ICC (Bundesgesetz über die Zusammenarbeit mit dem Internationalen Strafgerichtshof, BUNDESGESETZBLATT [BGBl.] no. 135/2002, translation of §§ 1-8 available at http://www.icrc.org/IHL-NAT.NSF/0/1AB5EA49F1F8B771C1256AFD00_5AB20B), but has not enacted Austrian criminal provisions on crimes against humanity or jurisdictional provisions for such crimes. While the Austrian Penal Code (Strafgesetzbuch, Jan. 24, 1974, BGBl no. 60/1974, *as amended*) contains no provisions on crimes against humanity, it does contain a provision on genocide (*Id.* § 321).

In its jurisdictional provisions, the Austrian Penal Code does not list either genocide or crimes against humanity as offenses over which Austria would exercise jurisdiction if committed abroad without any relation to Austria. For genocide, however, the Austrian Supreme Court found criminal jurisdiction to exist in Austria (Oberster Gerichtshof, decision July 13, 1994, docket no. 15 Os 99/94, available at http://www.ris.bka.gv.at/Dokumente/Justiz/JJR_19940713_OGH0002_0150OS00099_9400000_003/JJR_19940713_OGH0002_0150OS_00099_9400000_003.html) on the basis of section 65(1), number 2, of the Austrian Penal Code, which establishes Austrian criminal jurisdiction over acts committed abroad by perpetrators who were apprehended in Austria and who, due to existing circumstances, cannot be prosecuted in the place of commission. The Austrian decision was also based on Article 6 of the United Nations Genocide Convention, which requires the member states to exercise such jurisdiction (Convention on the Prevention and Punishment of the Crime of Genocide, G.A. Res. 260 (III) A (Dec. 9, 1948.), available at <http://www.preventgenocide.org/law/convention/text.htm>).

Azerbaijan

An English translation of the Criminal Code for Azerbaijan (adopted Sept. 30, 1999) can be found at <http://www.legislationline.org/documents/section/criminal-codes> (last visited Apr. 28, 2010). It provides for the prosecution of crimes against humanity and war crimes, placing relevant provisions in specific sections of the Code (Chapter 16, arts. 100-113). The Code subjects to liability all individuals who commit a crime in the country's territory (art. 11.1), and subjects its own nationals and residents to liability for crimes committed outside the country, if their act is considered a crime under the laws of Azerbaijan or the country where the crime is committed. Azerbaijan extends the jurisdiction of its Criminal Code to all individuals present in Azerbaijan, regardless of the fact of where a crime against humanity has been committed (art. 12.3).

Belgium

In Belgium, crimes against humanity are governed by the Law of June 16, 1993, as amended in August 2003, on the Punishment of Serious Violations of International Humanitarian Law (Service Public Fédéral, Code Pénal, <http://www.ejustice.just.fgov.be/loi/loi.htm> (scroll down to Code Penal, then Recherche, then Liste, choose No. 2 and click on Détail, and scroll to [TITRE Ibis](#))). The Law has been incorporated into the Penal Code under Articles 136bis to 136octies. Article 136bis defines genocide. Article 136ter lists acts that if organized and committed against a section of the civilian population become crimes against humanity. They include, among others, murder, extermination, enslavement, deportation, torture, rape, disappearance of persons, apartheid, and other similar acts intentionally causing very serious suffering or grave encroachment on the victims' physical integrity or mental health. Article 136quater provides that war crimes listed in the Geneva Conventions and Protocols and in Article 8, § 2(f), of the Rome Statute are also governed by the present Law if they encroach upon the protection and property guarantees provided by these international instruments. Crimes against humanity are generally punished by life imprisonment.

Under Article 6 of the Criminal Investigation Code, Belgian courts have jurisdiction over Belgian citizens and persons having their principal residence in Belgium who committed crimes against humanity outside Belgian territory. (*Id.*)

Bosnia-Herzegovina

An English translation of the Criminal Code for Bosnia-Herzegovina (entered into force on Mar. 1, 2003) can be found at <http://www.legislationline.org/documents/section/criminal-codes> (last visited Apr. 28, 2010). It provides for the prosecution of crimes against humanity and war crimes, placing relevant provisions in specific sections of the Code (Chapter 17, arts. 171-172). The Code subjects to liability all individuals who commit a crime in the country's territory, and subjects its own nationals and residents to liability for crimes committed outside the country, if their act is considered a crime under the laws of Bosnia-Herzegovina or the country where the crime is committed. The Code provides for additional jurisdiction over crimes committed by anyone outside of the country against Bosnia-Herzegovina's state

interests or for cases provided for in international agreements irrespective of the laws of the state where the crime was committed (art. 12).

Brazil

On September 25, 2002, the Brazilian government issued Decree No. 4,388 (Decreto No. 4,388 de 25 de Setembro de 2002, Brazilian Presidency website, *available at* http://www.planalto.gov.br/ccivil_03/decreto/2002/D4388.htm), which promulgated the Rome Statute. The Rome Statute had been previously approved by the Brazilian Congress on June 6, 2002, through Legislative Decree No. 112 and, in accordance with Article 126 of the Rome Statute, entered into force in Brazil on September 1, 2002.

In regard to the incorporation of the Rome Statute into the country's criminal laws, Brazil has yet to amend its Penal Code to comport with the provisions of the Rome Statute.

Bulgaria

An English translation of the Criminal Code of the Republic of Bulgaria (adopted in April 1968, amended as of May 2005) can be found at <http://www.legislationline.org/documents/section/criminal-codes> (last visited Apr. 28, 2010). It provides for the prosecution of crimes against humanity and war crimes, placing relevant provisions in specific sections of the Code (Chapter 14, arts. 407-418). The Code subjects to liability all individuals who commit a crime in the country's territory, and subjects its own nationals and residents to liability for crimes committed outside the country, if their act is considered a crime under the laws of Bulgaria or of the country where the crime was committed (art. 4). Article 6(1) states that the Code applies to anyone who has committed a crime against "peace and mankind affecting interests of another country or foreign citizens." (*Id.*)

Cambodia

There is a Cambodian statute that defines crimes against humanity. However, it only deals with crimes committed during the period from April 17, 1975, to January 6, 1979. (Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea, NS/RKM/0801/12 (2001), *as amended by* NS/RKM/1004/006 (2004), art. 5, unofficial English translation *available at* http://www.adh-geneva.ch/RULAC/pdf_state/ECCC-Law-as-amended-27-Oct-2004-Eng.pdf.)

Other statutes that deal with crimes against humanity were not located. Note that the Law Library does not have a specialist with Khmer language skills on staff.

Canada

The Crimes Against Humanity and War Crimes Act, 2000 S.C. ch. 24, <http://laws->

lois.justice.gc.ca/eng/C-45.9/index.html (last visited Apr. 27, 2010), applies to all crimes against humanity committed within Canada. (*Id.* § 4.) For wrongs committed outside the country, the Act provides that:

A person who is alleged to have committed [a crime against humanity outside the country] may be prosecuted for that offense if

- (a) at the time the offense is alleged to have been committed,
 - (i) the person was a Canadian citizen or was employed by Canada in a civilian or military capacity,
 - (ii) the person was a citizen of a state that was engaged in an armed conflict against Canada, or was employed in a civilian or military capacity by such a state,
 - (iii) the victim of the alleged offence was a Canadian citizen, or
 - (iv) the victim of the alleged offense was a citizen of a state that was allied with Canada in an armed conflict; or
- (b) after the time the offense is alleged to have been committed, the person is present in Canada. [*Id.* § 8.]

Colombia

Colombia ratified the Rome Statute on June 5, 2002 (DIARIO OFICIAL DE COLOMBIA, June 7, 2002). At the time of the deposit of the instrument of ratification (*available at* http://www.secretaria_senado.gov.co/senado/basedoc/ley/2002/ley_0742_2002.html (last visited Apr. 28, 2010)), Colombia made a reservation to the treaty, (*available at* http://www.iccnw.org/documents/Colombia_DeclarationRatificationAug2002_sp.pdf (last visited Apr. 27, 2010)).

Although Colombia has not adopted any specific law implementing the Rome Statute, the following provisions of the Criminal Code are applicable to crimes against humanity:

- Genocide: arts. 101-102
 - Forced disappearance: arts. 165-167
 - Kidnapping: arts. 168-171
 - Arbitrary detention: arts. 174-177
 - Torture: arts. 178-179
 - Forced displacement: arts. 180-181
 - Crimes against people and assets protected by international humanitarian law: arts. 135-164
 - Crimes of terrorism: arts. 340-348
- (Text of Code *available at* http://www.secretariasenado.gov.co/senado/basedoc/ley/2000/ley_0599_2000_pr003.html#101 (last visited Apr. 27, 2010).)

Congo, Democratic Republic of the

The Democratic Republic of the Congo is not a party to the Rome Statute of the International Criminal Court.

The Criminal Code of the country was approved and became effective on November 30, 2004. It does not include any reference to punishing crimes against humanity. (Code Penal Congolais, JOURNAL OFFICIEL DE LA RÉPUBLIQUE DÉMOCRATIQUE DU CONGO, Nov. 30, 2004, available at <http://www.leganet.cd/Legislation/JO/2004/JO.30.11.2004.pdf>.)

The Constitution of February 18, 2006, however, reaffirms the country's support for the Universal Declaration of Human Rights and other international documents to which it has adhered. Article 16 of the Constitution states, "[t]he human person is sacred and the state has the obligation to respect and protect it." (Constitution, JOURNAL OFFICIEL DE LA RÉPUBLIQUE DÉMOCRATIQUE DU CONGO, Feb. 18, 2006, available at <http://www.leganet.cd/Legislation/JO/2006/JO.18.02.2006.pdf>.)

Congo (Republic of) [Brazzaville]

The Republic of Congo (Brazzaville) has adopted Law No. 8-98 of October 31, 1998, on Defining and Repressing Genocide, War Crimes, and Crimes Against Humanity. The following is a brief translation of a part of the text:

Chapter 1. On Genocide

Article 1. The act of committing or executing a plan for the destruction of national, ethnic or racial, or religious groups or any other group consists of one of the following acts:

- killing all members of the group;
- attacking the physical or mental integrity of the members of the group;
- intentional suppression of the group; and
- forced transfer of the children of the group.

Article 2. Genocide is punishable by death.

Chapter 2. War Crimes

Crimes in violation of the Geneva Convention of August 12, 1949, are punishable by life imprisonment or death.

Chapter 3. Crimes Against Humanity

Article 6. Crimes against humanity are punishable by death and consist of a systematic and generalized attack against a civilian population resulting in:

- murder;
- extermination;
- enslavement of the population.
- deportation or forced transfer of the population;
- imprisonment or other forms of forced deprivation of liberty;
- torture; or
- rape, sexual slavery, or prostitution.

(Text in the vernacular published by the Ministry of Justice of the Republic of the Congo, Codes d'Audience, Recueil de Codes et Textes Usuels (Brazzaville, 2001) (copy attached).

Costa Rica

Costa Rica promulgated Law No. 8272 in 2002, amending Article 7 and adding Article 378 and 379 to the Penal Code. Article 379 addresses crimes against humanity. The English and vernacular texts are found at the following website: http://www.nottingham.ac.uk/shared/shared_hrlcicju/Costa_Rica/ (last visited Apr. 27, 2010). Article 378 addresses war crimes. The amended Article 7 states:

Whatever provisions are applicable in the place where the punishable action occurred and regardless of the nationality of the person responsible, any person who commits ... acts of genocide, ... or commits any other punishable acts contrary to human rights and International Humanitarian Law under any treaties signed by Costa Rica or under this Code shall be liable for punishment in accordance with the Laws of Costa Rica. (*Id.*)

Croatia

The Criminal Code of Croatia (entered into force on Jan. 1, 1998, amended as of July. 15, 2003), in unofficial translation, can be found online through the website of the publisher of the official gazette at http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation_Criminal-Code.pdf (last visited Apr. 28, 2010). Article 157A of the Code prosecutes crimes against humanity. The Code subjects to liability all individuals who committed a crime in the country's territory, and subjects its own nationals and residents to liability for crimes committed outside the country, if their act is considered a crime under the laws of Croatia or the country where the crime was committed. The Code provides for additional jurisdiction over crimes committed by anyone outside of the country against Croatia's state interests or for cases provided for in international agreements, irrespective of the laws of the state where the crime was committed (art. 14).

Denmark

Denmark adopted the Act on the International Criminal Court on May 16, 2001 (*available at* http://www.adh-geneva.ch/RULAC/pdf_state/2001-Act-on-the-ICC.pdf (in English

translation) (last visited Apr. 28, 2010)), and, as a 2006 Human Rights Watch report points out, Denmark prosecutes the domestic law equivalents of international crimes. As to jurisdiction, Human Rights Watch states:

Section 8 (5) of the Danish Penal Code ... provides for universal jurisdiction over crimes that Denmark has an obligation to prosecute under an international convention. This includes torture under the Convention against Torture ... and grave breaches of the Geneva Conventions. ... In addition, section 8 (6) provides Danish courts with universal jurisdiction over any crime with a sentence of more than one year's imprisonment, where the crime is also a crime in the territorial state and the suspect cannot be extradited to the territorial state. ... Due to a lack of implementing legislation, all complaints are investigated, prosecuted and eventually punished on the basis of crimes as defined in the Danish Penal Code.

The Danish Justice Ministry reportedly prepared a White Paper in 2007 on Danish criminal jurisdiction (*Dansk straffemyndighed, Betænkning nr. 148*, available at <http://jm.schultzboghandel.dk/upload/microsites/jm/ebooks/bet1488/bet/hele.html> (in Danish; last visited Apr. 28, 2010) that “included recommendations that would make it easier for Danish courts to prosecute crimes committed abroad, especially international crimes.” (Denmark, RULAC database, http://www.adh-geneva.ch/RULAC/national_legislation.php?id_state=55 (last visited Apr. 27, 2010).) It is not readily apparent whether any action has been taken on these recommendations, however.

Denmark also has a statute on genocide, Danish Law No. 132 of 29 of April 1955 (Law Concerning Punishment of Genocide [Lov nr. 132 af 29.04.1955 om straf for folkedrab], available at <http://www.prevent-genocide.org/dk/folkedrab1955.htm> (in Danish and in English translation) (last visited Apr. 28, 2010)).

Note that the Law Library does not have a specialist with Danish language skills on staff

Ecuador

Ecuador ratified the Statute of Rome (SR) on January 17, 2002 (REGISTRO OFICIAL, Jan. 31, 2002, available at http://www.derechoecuador.com/index.php?option=com_content&task=view&id=231&Itemid=280#anchor428667).

The Political Constitution (REGISTRO OFICIAL, Oct. 20, 2008, available at http://www.derechoecuador.com/index.php?option=com_content&task=view&id=4742&Itemid=498#Derechosdelibertad) includes provisions against torture, forced disappearance, and cruel treatment (*id.* art. 66.3.c). It also provides that genocide, crimes against humanity, war crimes, and forced disappearance will not be subject to any statute of limitations (*id.* art. 80).

A recent Law amending the Criminal Code was adopted on April 27, 2009, to include the crime of genocide, incorporating the provisions of Article 6 of the Rome Statute, and establishing criminal sanctions of from six to twenty-five years of imprisonment for those crimes (REGISTRO OFICIAL, Apr. 27, 2009, Global Legal Information Network website, <http://content.glin.gov/summary/221978>).

Estonia

An English translation of the Criminal Code of Estonia (entered into force on Sept. 1, 2003, amended as of March 15, 2007) can be found at <http://www.legislationline.org/documents/section/criminal-codes> (last visited Apr. 28, 2010). It provides for the prosecution of crimes against humanity and war crimes, placing relevant provisions in specific sections of the Code (Chapter 18. Div. 2, arts. 89, 90). The Code subjects to liability all individuals who commit a crime in the country's territory, and subjects its own nationals and residents to liability for crimes committed outside the country, if their act is considered a crime under the laws of Estonia or of the country where the crime was committed (art. 6).

European Union

At the European Union level, the following items of legislation deal with crimes against humanity:

- Council Framework Decision 2008/913/JHA of 28 November 2008 on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law (2008 OFFICIAL JOURNAL OF THE EUROPEAN UNION [OJ] (L328) 55, EUROPA website, available at http://europa.eu/legislation_summaries/justice_freedom_security/combating_discrimination/133178_en.htm). The Decision requires Member States to adopt legislation by November 2010 to punish intentional conduct that publicly condones, denies, or grossly trivializes crimes of genocide, crimes against humanity, and war crimes as defined in Articles 6, 7, and 8 of the Statute of the International Criminal Court directed against a group of persons defined by race, color, religion, or descent and carried out in a manner likely to incite hatred against such a group. (*Id.* Art. 1(c).)
- Council Decision 2003/335/JHA of 8 May 2003 on the Investigation and Prosecution of Crimes of Genocide, Crimes Against Humanity and War Crimes (2003 OJ (L118) 12, EUROPA website, available at http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_criminal_matters/116005_en.htm). Member States are required to take measures to ensure that their enforcement authorities are informed about facts that indicate that an applicant for a residence permit has committed genocide, crimes against humanity, or war crimes, as defined by the Rome Statute; and also to ensure that Member States assist each other in the investigation and prosecution of such crimes.
- Council Decision 2002/494/JHA of 13 June 2002 Setting Up a European Network of Contact Points in Respect of Persons Responsible for Genocide, Crimes Against Humanity and War Crimes (2002 OJ (L167) 1, EURLEX website, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002D0494:EN:HTML>). The Decision requires that Member States establish contact points within their territories for the exchange of information concerning the investigation of genocide, crimes against

humanity, and war crimes and also inform the General Secretariat of the Council of the EU regarding the designated bodies.

Finland

The Finnish Penal Code, amended to include Law 212/2008, Laki rikoslain muuttamisesta [Law Amending the Criminal Code] of May 1, 2008, is available in unofficial translation from the Finnish Ministry of Justice, at <http://www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf> (last visited Apr. 26, 2010). Chapter 11 covers war crimes and crimes against humanity; other subsections were also amended in 2008. Under section 7 of Chapter 1 of the Code, Finnish law applies to international crimes if they are acts that contravene agreements to which Finland is a party.

France

In France, crimes against humanity are governed by Book II, Title I, of the Penal Code, entitled “Crimes against Humanity and the Human Species.” The original provisions were enacted in December 1964; they were last amended by Law 2004-800 of August 6, 2004. Subtitle I specifically addresses crimes against humanity: genocide (art. 211-1); other crimes against humanity, including deportation, enslavement, systematic practice of summary executions, and other additional offenses (arts. 212-1 to 212-3); and common provisions (arts. 213-1 to 213-5). Subtitle II governs eugenic practices and human reproductive cloning (arts. 214-1 to 214-4 and 215-1 to 215-4).

Crimes against humanity are punishable by life imprisonment. They are not subject to any statute of limitations. French law also recognizes the criminal liability of legal entities in a large number of offenses including crimes against humanity. France extends the reach of French criminal law to offenses committed outside its territory by a French or foreign national when the victim is a French national (Penal Code, art. 113-7).

The provisions listed above may be found in English on the French government legal website, at <http://www.legifrance.gouv.fr>. Click on the British flag next to “Les codes en vigueur,” then on “Penal Code,” then on “First Part: Enacted Parts: Arts. 111-1 to 727-2,” and finally on “Book II” to reach the articles listed above.

Georgia

An English translation of the Criminal Code of Georgia (adopted on February 15, 2000) is available at the U.N. High Commissioner for Refugees website, at <http://www.unhcr.org/refworld/docid/404c5dc11.html> (last visited Apr. 28, 2010). It provides for the prosecution of crimes against humanity and war crimes, placing relevant provisions in specific sections of the Code (Chapter 47, arts. 404-413). The Code subjects to liability all individuals who commit a crime in the country’s territory (art. 4), and subjects its own nationals and residents to liability for crimes committed outside the country, if their act is considered a crime under the laws of Georgia or the country where the crime was committed (art. 5).

Germany

The Act to Introduce the Code of Crimes Against International Law (of June 26, 2002) (Gesetz zur Einführung des Völkerstrafrechtsgesetzbuches, June 26, 2001, BUNDESGESETZBLATT [BGBl.] I at 1842, translated into English at <http://www.iuscomp.org/gla/statutes/VoeStGB.pdf>) adjusts German criminal law and procedure to the Rome Statute of the International Criminal Court. Article 1 of the Act is a Code of Crimes Against International Law (*Völkerstrafrechtsgesetzbuch*, June 26, 2002, BGBl I at 1842, translated into English at <http://www.iuscomp.org/gla/statutes/VoeStGB.pdf>). This Code contains criminal provisions against genocide (§ 6), crimes against humanity (§ 7), and war crimes (§§ 8 – 12). Section 6 of the Code contains a detailed definition of crimes against humanity that makes various acts of violence an element of the crime if committed as part of any widespread or systematic attack against any civilian population.

The Code also contains jurisdictional provisions for the crimes enacted therein. According to section 1, Germany has criminal jurisdiction over the offenses described in the Act irrespective of whether the offense was committed in Germany or anywhere else, and irrespective of whether an act committed abroad has any relation to Germany. This principle of jurisdiction, commonly referred to as universal jurisdiction in German legal doctrines, applies to all the offenses listed in the Act, with the exception of some supervisory conduct, to the extent that it is a misdemeanor. In any event, universal jurisdiction applies to crimes against humanity, as defined by the Act.

Ireland

The International Criminal Court Act, No. 30/2006, § 7, <http://www.irishstatutebook.ie/2006/en/act/pub/0030/index.html> (last visited April 27, 2010), sets forth the relevant provisions on crimes against humanity. The Act states that “proceedings for a [crime against humanity] committed outside the State may be taken in any place in the State, and the offence may for all incidental purposes be treated as having been committed in that place.” (*Id.* § 9(3).) The Act also extends jurisdiction to Irish nationals who commit a crime against humanity outside the state and to all persons who commit crimes against humanity on board an Irish ship or aircraft. (*Id.* § 12).

Italy

Italy ratified the Rome Statute of the International Criminal Court by enacting Law No. 232/1999 of July 12, 1999, which was published in 167 GAZZETTA UFFICIALE DELLA REPUBBLICA ITALIANA [Official Gazette] (July 19, 1999). Based on that Law, the Statute was “fully introduced into the Italian legal order as of 1 July 2002.” (Embassy of Italy letter of May 16, 2008, to the ICC Secretariat, ICC website, <http://www.oid.icc-cpi.int/library/asp/ICC-ASP-POA2008-ITA-ENG.pdf> (last visited Apr. 29, 2010).) Despite that fact, however, a number of the Statute’s provisions “are not necessarily self-executing,” and there have been

several unsuccessful attempts to pass additional implementing legislation. (*Id.*) Bill No. 1112 of 2008 was one of the efforts (Legislatura 16^o – Disegno di legge N. 1112, http://www.parlamento.it/japp/bgt/showdoc/frame.jsp?tipodoc=Ddlpres&leg=16&id=00330649&part=doc_dc-relpres_r&parse=no&stampa=si&toc=no (last visited Apr. 29, 2010)). More recently, in May 2009, the Chamber of Deputies had a bill under consideration for a first reading (C. 2445, tabled on May 18, 2009) that was subsequently sent to committee. (*Atto Camera: 2445*, Italian Parliament website, <http://nuovo.camera.it/126?action=submit&leg=16&pdl=2445&stralcio=&navette=&cerca=cerca> (last visited Apr. 29, 2010).) It is unclear what the current status of that legislation is.

For a discussion of crimes against humanity in connection with Italy's implementation of the Rome Statute, see Marco Roscini, *Great Expectations: The Implementation of the Rome Statute in Italy*, 5:2 JOURNAL OF INTERNATIONAL CRIMINAL JUSTICE 493 (May 1, 2007), Lexis, Law Reviews Library [photocopy attached]. Roscini notes, for example:

Crimes against humanity are not defined as such in Italian law. Most crimes contained in Article 7 of the Rome Statute are partially covered by domestic criminal provisions: murder by Article 575 of the Penal Code, rape and other forms of sexual violence by Articles 609bis et seq., enslavement by Articles 600-602 (as amended by Law No. 228 of 11 August 2003), imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law by Articles 605, 606 and 607, forced disappearances by Articles 606 and 607. ... Although the crime of enslavement as defined in the new text of Article 600 is broader than the corresponding definition in Article 7, ... other definitions in the Code fall short of those included in the Rome Statute.

Although the Italian Penal Code does not include specific offenses defined as crimes against humanity, the term “crimes against humanity” does appear. In Article 414, on the incitement to commit crimes against public order, paragraph 4 (which was inserted as an amendment in 2005) states that if the crimes set forth in the other paragraphs of the article are crimes of terrorism or crimes against humanity, the punishment is to be increased by half. (Codice Penale, ALTALEX, <http://www.altalex.com/index.php?idnot=36653> (last visited Apr. 29, 2010); I NUOVI CODICE PENALE E CODICE DI PROCEDURA PENALE E LE LEGGI COMPLEMENTARI 194 (Luigi Alibrandi ed., CasaEditriceLaTribuna, 2006).)

Italy also has in place Law No. 962 of October 9, 1967, on the Prevention and Punishment of the Crime of Genocide. (Legge italiana 9 ottobre 1967, n.962, Prevenzione e Repressione del Delitto di Genocidio, Prevent Genocide International website, <http://preventgenocide.org/it/legge.htm> (last visited Apr. 30, 2010).)

Note that the Law Library does not have a Foreign Law Specialist with Italian language skills on staff.

Ivory Coast

The Penal Code of the Ivory Coast was adopted in 1981 as Law No. 81-640 and was modified by Laws 95-522, of July 6, 1995; 96-764 of October 3, 1996; 97-398 of July

11, 1997; and 98-756 of December 23, 1998. The Penal Code addresses crimes against humanity in Book II, Title I, as follows (as translated by the author):

CHAPTER I: Genocide

Art. 137 – A person shall be sentenced to death who, with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, commits, organizes, or gives orders to commit any of the following acts in a time of peace or war:

1. killing or inflicting serious bodily injuries or serious harm to the physical or mental health of members of a group, in any form whatsoever;
2. imposing measures intended to prevent reproduction or the survival of the offspring of members of a group; or
3. deportation or forcible transfer of a population.

Art. 138 – A person shall be sentenced to death who, in a time of war or occupation and in violation of human rights laws or international conventions, commits, organizes, or gives orders to commit any of the following acts against civilians:

1. murder, torture, inhumane treatment or causing serious bodily harm;
2. inflicting conditions of life calculated to bring about physical destruction;
3. deportation or forcible transfer of a population;
4. forced recruitment into the armed forces or other enemy services; or
5. conducting terror, taking hostages or imposing heavy punishments. [CENTRE NATIONAL DE DOCUMENTATION JURIDIQUE, CODE PENAL (Abidjan, 2000)].

Japan

There is no law in Japan to punish criminal acts as “crimes against humanity” per se. Japan ratified the Rome Statute of the International Criminal Court, but determined that existing criminal laws could cover crimes against humanity in the Rome Statute. The crimes of rape, murder, injury, arrest and confinement, and abduction will cover most crimes against humanity.

Japan has jurisdiction over crimes that cover “crimes against humanity” if they are committed in Japan, including on Japanese vessels and planes, by anyone; if they are committed by Japanese nationals abroad; and if they are committed by non-nationals against Japanese nationals abroad. (PENAL CODE, Law No. 45 of 1907, *as amended*, arts. 1, 3, 3-2.)

Korea, South

Article 9 of the Act on the Punishment, Etc. of Crimes Under the Jurisdiction of the International Criminal Court, Act No. 8719 (Dec. 21, 2007), contains a provision that punishes crimes against humanity. An unofficial English translation of the law is available at <http://www.iccnw.org/documents/KoreaImplementingAct.pdf> (last visited Apr. 27, 2010). According to Article 3 of the Act, its jurisdiction includes crimes committed:

- In Korea by nationals and non-nationals;
- By nationals while abroad;

- On vessels or aircraft of Korea, at any place;
- Against the country or its nationals outside the country; or
- By foreigners later present in Korea, when the crimes are “genocide etc.”

Kyrgyzstan

The Criminal Code of Kyrgyzstan was adopted on September 21, 1998 (available in the vernacular at <http://www.legislationline.org/documents/section/criminal-codes> (last visited Apr. 28, 2010)). All individuals who commit a crime in the territory of the Kyrgyz Republic will be penalized according to this Code (*id.* art. 5). Citizens and permanent residents of the Kyrgyz Republic who commit a crime outside of its territory shall be penalized according to this Code if they were not convicted by a court of a foreign state (*id.* art. 6). Since no English translation is available, the relevant Code provisions have been summarized by the author as follows:

Section 34. Crimes Against Peace and Security of the Nation

Article 373. Genocide

Actions aimed at full or partial elimination of a national, ethnic, racial, or religious group conducted by murder of a member of this group, causing health damage, imposing coercive measures preventing childbirth, forcible transfer of children of the group, forcible resettlement of members of the group, or creation of other conditions aimed at physical elimination of the group shall be punished by imprisonment for a term of 12 to 20 years or by the death penalty.

Article 374 Ecocide

The mass destruction of flora and fauna, contamination of atmosphere and water resources, or commission of other acts able to create an environmental catastrophe shall be punished by imprisonment for a term of 12 to 20 years.

Article 375. Mercenaries

(1) Gathering, training, bankrolling or otherwise providing materially for a mercenary, or the use of such person in an armed conflict or any hostilities shall be punishable by imprisonment for a term of 4 to 8 years.

(2) Participation of a mercenary in an armed conflict or any hostilities shall be punished by imprisonment for a term of 3 to 7 years.

(3) The same action perpetrated by using one's official position or against a minor shall be punished by imprisonment for a term of 7 to 15 years, with or without confiscation of property.

Article 376. Attack on Persons or Institutions under International Protection.

Attacking a representative of a foreign state or international organization that is under international protection, as well as an attack on offices, residencies, or vehicles of persons under international protection if this act was committed in order to provoke a war or complicate international relations shall be punishable by imprisonment for a term of 3 to 8 years.

Latvia

An English translation of the Criminal Code of Latvia (adopted on May 18, 2000) can be found at <http://www.legislationline.org/documents/section/criminal-codes> (last visited Apr. 28, 2010). It provides for the prosecution of crimes against humanity and war crimes, placing relevant provisions in specific sections of the Code (Chapter 9, Sec. 71-72, 78-79). The Code

subjects to liability all individuals who commit a crime in the country's territory, and subjects its own nationals and residents to liability for crimes committed outside the country, if the act is considered a crime under the laws of Latvia or of the country where the crime was committed. The Code provides for additional jurisdiction over crimes committed by anyone outside of the country against this nation's state interests, or for cases provided for in international agreements irrespective of the laws of the state where the crime was committed (§ 4).

Liechtenstein

Liechtenstein cooperates with the International Criminal Court under a Federal Act on Cooperation with the ICC (Bundesgesetz über die Zusammenarbeit mit dem Internationalen Strafgerichtshof, Oct. 20, 2004, SYSTEMATISCHE SAMMLUNG DER LIECHTENSTEINISCHEN RECHTSVORSCHRIFTEN [LR] 352; translation *available at* [http://www.nottingham.ac.uk/shared/shared_hrlcicju/Lichtenstein/Liechtenstein Law on Cooperation with the International Criminal Court 2004 .doc](http://www.nottingham.ac.uk/shared/shared_hrlcicju/Lichtenstein/Liechtenstein%20Law%20on%20Cooperation%20with%20the%20International%20Criminal%20Court%202004.doc)), but has not enacted criminal provisions on crimes against humanity or jurisdictional provisions for such crimes. While the Liechtenstein Penal Code (Strafgesetzbuch, June 24, 1987, *as amended*, LR 311.0) contains no provisions on crimes against humanity, it does contain a provision on genocide in section 321.

Criminal jurisdiction over genocide perpetrated abroad appears to be available on the basis of section 65 (1), number 2, of the Liechtenstein Penal Code, in conjunction with Article 6 of the Genocide Convention (Convention on the Prevention and Punishment of the crime of Genocide, Dec. 9, 1948, U.N. Gen Assembly Resolution 260 (iii) A, *available at* <http://www.preventgenocide.org/law/convention/text.htm>). Section 65 (1), number 2, of the Penal Code provides jurisdiction over acts committed abroad by perpetrators who were apprehended in Liechtenstein and who cannot be prosecuted in the place of commission, if Liechtenstein is under an obligation of international law to exercise such jurisdiction. Article 6 of the Genocide Convention requires the member states to exercise such jurisdiction.

Luxembourg

Luxembourg's Law of January 9, 1985, on the Punishment of Grave Breaches of the Geneva International Conventions of August 12, 1949 (Mémorial, JOURNAL OFFICIEL DU GRAND DUCHÉ DE LUXEMBOURG, <http://www.legilux.public.lu/leg/a/archives/1985/0002/a002.pdf#page=81> (last visited Apr. 27, 2010)), provides:

The following grave offenses that interfere, by action or omission, with the rights of persons or properties protected by the Conventions signed in Geneva on August 12, 1949, and approved by the Law of May 23, 1953, constitute crimes of international law:

- (1) intentional homicide;
- (2) torture or inhuman treatment, including biological experiments;
- (3) intentionally causing grave suffering or seriously encroaching upon physical integrity or health;

- (4) forcing a person protected by the Convention Relative to the Treatment of Prisoners of War or by the Convention relative to the Protection of Civilian Persons in Time of War to serve in the enemy armed forces;
- (5) depriving a person protected by the Convention Relative to the Treatment of Prisoners of War or by the Convention Relative to the Protection of Civilian Persons in Time of War of his/her right to be regularly and impartially judged according to the rules established by these Conventions;
- (6) deporting any persons protected by the Convention Relative to the Protection of Civilian Persons in Time of War;
- (7) transferring or detaining any person protected by this Convention, if such transfer or detention is prohibited by the Convention;
- (8) taking hostages; and
- (9) destruction or appropriation of properties that are not justified by military necessity and performed on a large scale.

Offenses listed in (1), (2), and (3) are punishable by life imprisonment. Offenses listed in (4), (5), (6), (7), and (8) are punishable by imprisonment from fifteen to twenty years, or life imprisonment if they result in the death of one or several persons, an incurable illness, a permanent incapacity, the loss of one organ, or a grave mutilation. Offense (9) is punishable by ten to fifteen years of imprisonment.

Finally, Article 10 of the Law provides that “any person, who has committed, outside the territory of the Grand Duchy, a violation covered by the present law, can be prosecuted in the Grand Duchy even if he is not found here.” (*Id.*)

Mali

The Penal Code of Mali was published in the JOURNAL OFFICIEL DE LA REPUBLIQUE DU MALI as Law No. 01-079 of August 20, 2001. A copy of the relevant provisions in the vernacular is attached. The following is a brief translation.

Article 29, under the title “Crimes Against Humanity,” states:

Crimes against humanity may be one of the following acts committed by a general and involving a systematic attack launched against a civilian population:

- a) murder;
- b) extermination;
- c) enslavement;
- d) deportation or forced transfer of the population;
- e) imprisonment or deprivation of physical liberty by violating the fundamental principles of international law;
- f) torture;
- g) rape, sexual slavery, forced prostitution, sterilization, forced pregnancy and all other forms of similar sexual violence; or
- h) any other inhumane act.

Art. 32: All the crimes specified in this title shall be punished by death and are not subject to prescription.

Malta

The relevant provisions in Maltese law on crimes against humanity are contained in the Criminal Code, Title I, Part II, Genocide, Crimes Against Humanity and War Crimes, which was added in 2002 (available at http://www2.justice.gov.mt/lom/chronological_index.asp?LangID=E&PubID=LG&PSB=P).

The jurisdiction for the offenses in Title I, Part II is contained in section 54G and allows the prosecution of offenses in Malta:

- (a) against any person subject to military law in terms of articles 178, 179 and 180 of the Malta Armed Forces Act even if the offense was committed outside Malta; or
- (b) against any citizen of Malta or permanent resident in Malta who outside Malta conspires to commit any offense under this Title even if the offense is to be committed outside Malta.

Mexico

Mexico's Federal Criminal Code includes a chapter entitled "*Delitos Contra la Humanidad*," which can be roughly translated as Crimes against Humanity. This chapter comprises two legal provisions: Articles 149 and 149-Bis. Article 149 describes a crime called "*Violación de los deberes de humanidad*," which can be roughly translated as "Violation of the Duties of Humanity." Article 149-Bis describes the crime of genocide. Articles 149 and 149-Bis do not appear to include statements on the extent of jurisdiction. Time constraints prevented a determination of whether other provisions of the Federal Criminal Code address this issue. Mexico's Federal Criminal Code is available on the Mexico House of Representatives' website, <http://www.diputados.gob.mx/LeyesBiblio/pdf/9.pdf> (last visited on Apr. 27, 2010).

Netherlands

The relevant provisions on crimes against humanity are contained in the Netherlands International Crimes Act 270, Act of 19 June 2003 Containing Rules Concerning Serious Violations of International Humanitarian Law (International Crimes Act), http://www.nottingham.ac.uk/shared/shared_hrlcicju/Netherlands/International_Crimes_Act__English_.doc.

Section 2, under § 1, General Provisions, states that without prejudice to the relevant provisions of the Criminal Code and the Code of Military Law, the Dutch criminal law applies to:

- (a) anyone who commits any of the crimes defined in this Act outside the Netherlands, if the suspect is present in the Netherlands;

- (b) anyone who commits any of the crimes defined in this Act outside the Netherlands, if the crime is committed against a Dutch national; or
- (c) a Dutch national who commits any of the crimes defined in this Act outside the Netherlands.

Thus, according to Human Rights Watch:

Dutch courts can exercise universal jurisdiction over genocide, war crimes, crimes against humanity, and torture provided that the perpetrator is present in the Netherlands and that the crimes were committed after the entry into force of the act on October 1, 2003 [International Crimes Act, sections 2 (1) (a), (c), 2 (3), in conjunction with sections 3 to 8 and section 10 defining the crimes. The introduction to the act emphasizes that the provisions of the act cannot be applied ex post facto.] International crimes committed before that date have to be dealt with under previous law, the Wartime Offenses Act of July 10, 1952, the Genocide Convention Implementation Act of 1964 and the Act implementing the Convention against Torture of 1988. [HUMAN RIGHTS WATCH, UNIVERSAL JURISDICTION IN EUROPE (June 27, 2006), *available at* http://www.hrw.org/en/reports/2006/06/27/universal-jurisdiction-europe-0?print#_ftn359.]

Note that the Law Library does not have a specialist with Dutch language skills on staff.

New Zealand

The following legislation refers to proceedings involving crimes against humanity:

- International Crimes and International Criminal Court Act [ICICCA] 2000, *available at* <http://www.legislation.govt.nz/act/public/2000/0026/latest/DLM63091.html> (a PDF version of the legislation is also available on this website).

This Act provides that a person may be charged with committing a crime against humanity (within the definition of Article 7 of the Rome Statute of the International Criminal Court), whether the offense was committed in New Zealand or elsewhere, and if convicted is liable to imprisonment in New Zealand. (ICICCA § 10.) The Attorney-General's consent is required for proceedings to be brought under this provision. (*Id.* § 13.) New Zealand courts have jurisdiction regardless of the nationality of the accused, whether or not any forming part of the offense occurred in New Zealand, and whether or not the accused was in New Zealand "at the time that the act constituting the offence occurred or at the time a decision was made to charge the person with an offence." (*Id.* § 8(1)(c).)

The Act also sets out the procedural requirements relating to New Zealand's cooperation with, and provision of assistance to, the International Criminal Court.

Nigeria

Nigeria signed the Rome Statute on June 2000, and ratified it on September 2001. (*See* Coalition for International Criminal Court portal, <http://www.coalitionfortheicc.org/?mod=country&iduct=128> (last visited Apr. 27, 2010)). This, however, is not sufficient to make the Rome Statute applicable in Nigeria. The Nigerian Constitution requires that all

treaties, in order to have the force of law in Nigeria, have to be enacted by the National Assembly. (CONSTITUTION OF THE FED. REP. OF NIGERIA § 12 (1999)). There is currently a bill, The Rome Statute (Ratification and Jurisdiction) Bill, for the implementation of the Rome Statute in Nigeria, but it has not yet been enacted into law.

Norway

Relevant provisions of Norwegian law on crimes against humanity are contained in Law No. 4 of March 7, 2008, Act Amending the Penal Code 20 May 2005 No. 28, etc. (Aggravating and mitigating circumstances, genocide, national independence, terrorism, peace, order and security, and public authorities).[Lov om endringer i straffeloven 20. mai 2005 nr. 28 mv. (skjerpene og formildende omstendigheter, folkemord, rikets selvstendighet, terrorhåndtering, ro, orden og sikkerhet, og offentlig myndighet (JD), 7 mars 2008 nr. 4], [in Norwegian], available at <http://www.lovdato.no/cgi-wift/ldles?ltdoc=/all/nl-20080307-004.html>. For a draft translation of Chapter 16, Genocide, crimes against humanity and war crimes, see http://www.adh-geneva.ch/RULAC/pdf_state/draft-chapter-16.pdf.

The Chapter 16 provisions appear to apply to any person who commits the acts listed. According to Human Rights Watch, moreover:

[A]rticle 12.4 of the Norwegian General Civil Penal Code (Criminal Code) enables the prosecution of non-nationals for crimes committed overseas—including international crimes—provided the criminal acts amount to a crime under Norwegian criminal law. Article 12.4 provides that Norwegian criminal law shall be applicable to acts committed abroad by a foreigner when the act either constitutes murder, assault and certain other crimes under Norwegian law, or “is a felony also punishable according to the law of the country in which it is committed, and the offender is resident in the realm or is staying therein” [Criminal Code 1982 art. 12.4]. [HUMAN RIGHTS WATCH, UNIVERSAL JURISDICTION IN EUROPE (June 27, 2006), available at http://www.hrw.org/en/reports/2006/06/27/universal-jurisdiction-europe-0?print#_ftn359.] [Note: this was published before the adoption of Law No. 4 of 2008.]

Note that the Law Library does not have a specialist with Norwegian language skills on staff.

Peru

Peru ratified the Rome Statute on September 15, 2001 (EL PERUANO, Sept. 16, 2001, available at <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/27517.pdf>). Its Criminal Code contains Articles 319-322 on crimes against humanity (<http://www.congreso.gob.pe/ntley/Imagenes/Leyes/26926.pdf> (last visited Apr. 28, 2010)).

Articles 554-566 of the Code of Criminal Procedure address cooperation with the ICC (http://www.iccnw.org/documents/CPP_Peru_legis_coop.pdf (last visited Apr. 28, 2010)).

According to news reports, a bill is pending in the Peruvian Congress on the Amendment of the Criminal Code. Among the provisions under consideration is the implementation of the Rome Statute to punish crimes against humanity according to international standards

(*Plantean adecuar Código Penal al Estatuto de Roma*, ELCOMERCIO.PE, Apr. 13, 2009, <http://elcomercio.pe/impresa/notas/plantean-adecuar-codigo-penal-al-estatuto-roma/20090413/272507> (last visited Apr. 28, 2010)).

Poland

The Polish Criminal Code, adopted on July 6, 1997, can be found in the vernacular online at <http://www.legislationline.org/documents/section/criminal-codes> (last visited Apr. 28, 2010). It is applicable to all crimes committed in the territory of Poland (Criminal Code art. 5). Foreign and stateless individuals are punishable under the Code for crimes committed outside the country against Poland's state interests and for cases provided for in international agreements irrespective of the laws of the state where the crime was committed (*id.* art. 110). No English translation is available. Therefore, relevant portions of the Code have been summarized by the author as follows:

Chapter XVI: Offenses Against Peace, Humanity and War Offenses

Art. 118, § 1. Any person who, with the intent to destroy, in whole or in part, a national, ethnic, racial, political or religious group or a group of persons with a definite philosophical conviction, kills a member of the group or causes serious harm to the health of a member of the group, shall be punished with imprisonment for a time not shorter than 12 years, with imprisonment for 20 years, or with imprisonment for life.

§ 2. Any person who, with the intent mentioned in § 1, inflicts on persons belonging to such a group conditions of life calculated to bring about its biological destruction, or imposes measures intended to prevent births within the group, or forcibly transfers children of the group to another group, shall be punished with imprisonment for a time not shorter than five years, or with imprisonment for 25 years.

§ 3. Any person who attempts to commit the offense mentioned in §§ 1 or 2, shall be punished with imprisonment for a time not shorter than three years.

Chapter XVI also provides for the punishment of persons convicted for crimes of aggression, crimes against humanity and war crimes. Acts covered by the provisions of this chapter include the use of weapons of mass destruction, the unlawful production, stockpiling, acquisition, transport or sale of weapons, the use of prohibited means of warfare, the killing of protected persons, the unlawful destruction of cultural property and the misuse of recognized emblems, neutral or enemy flags, and military emblems.

Portugal

Law No. 31 of July 22, 2004, adapts the Portuguese Penal Law to the Rome Statute of the International Criminal Court, to criminalize conduct that constitutes a crime against humanity. (Lei No. 31/2004, de 22 de Julho (in Portuguese), *available at* the website of the Portuguese Public Prosecutor's Office [*Ministério Público, Procuradoria-Geral Distrital de Lisboa*] [PPPO], http://www.pgdlisboa.pt/pgdl/leis/lei_mostra_articulado.php?nid=123&tabela=leis.)

Law No. 31 amended, inter alia, Article 5 of Portugal's Penal Code (CÓDIGO PENAL, Decreto-Lei No. 48/1995, de 15 de Março (in Portuguese), *last amended by* Law No. 61/2008 of Oct. 31, *available at* the PPPO website, http://www.pgdlisboa.pt/pgdl/leis/lei_mostra_articulado.php?nid=109&tabela=leis), which determines that, except when there is a treaty or international convention to the contrary, Portuguese law is still applicable to acts practiced outside the national territory (Penal Code, art. 5(1)) when they constitute the crimes foreseen in Articles 159 (slavery); 160 (trafficking in persons); 169 (pimping); 172 (sexual abuse of dependent minors); 173 (practice of sexual acts with adolescents); and 176 (pornography with minors), as long as the agent can be found in Portugal and cannot be extradited (Law No. 31, art. 2).

The Penal Code was subsequently amended by Law No. 59 of September 4, 2007, which included in Article 5 the crimes foreseen in Articles 161 (kidnapping); 171 (sexual abuse of children); 175 (pimping of minors); 278 (damage against nature); 279 (pollution); and 280 (pollution with imminent danger) of the Penal Code. (Lei No. 59/2007, de 4 de Setembro art. 1 (in Portuguese), *available at* the PPPO website, http://www.pgdlisboa.pt/pgdl/leis/lei_mostra_articulado.php?nid=930&tabela=leis&ficha=1&pagina=1.)

Slovakia

Slovakia's Criminal Code (adopted in July 2005) can be found in the vernacular through a website of the publisher of the official gazette, at: <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=18749&FileName=05-z300&Rocnik=2005&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=323&Flags=160&IndexFile=zz05&Text=300/2005> (last visited Apr. 29, 2010). Because it is not available in English translation, a summary of the Code's relevant provisions follows:

Articles 4-7 of the Code establish jurisdiction over all crimes committed by anyone in the territory of the Slovak Republic, outside of the Slovak Republic against its interests, and for crimes the prosecution of which is required by international treaties signed by the Slovak Republic if an individual was not convicted for the crime abroad.

Chapter 12 of the Code provides for the prosecution of crimes against peace, humanity, and war crimes. Article 418 prosecutes genocide, which is defined as the intentional elimination of a group of people because of their national, ethnic, racial, or religious origin. This crime is punishable by imprisonment for a term of twenty to twenty-five years, or by life in prison if the crime was committed by an official or with other aggravating circumstances.

This Chapter also includes provisions outlawing terrorism (Criminal Code art. 419); the use of torture, which is punished by imprisonment for a term of three to twelve years (*id.* art. 420); and hate crimes (*id.* arts. 423, 424). It has a special provision punishing the commission of those crimes specified in Article 7 of the Rome Statute on the International Criminal Court (*id.* art. 425). These crimes are punishable by imprisonment for a term of twelve to twenty years.

Slovenia

Slovenia's Criminal Code (adopted in March 1994, amended as of June 15, 2005) can be found in translation from the U.N. Development Program website at http://km.undp.sk/uploads/_public/File/AC_Practitioners_Network/Slovenia_Criminal_Code.doc (last visited Apr. 28, 2010). It provides for the prosecution of crimes against humanity and war crimes, placing relevant provisions in specific sections of the Code (Chapter 35, arts. 373-375). A jurisdiction note is not available but following the continental legal tradition it appears to prosecute all crimes committed in Slovenia and crimes committed by Slovenian nationals and residents abroad.

South Africa

The applicable law in South Africa concerning crimes against humanity is the Implementation of the Rome Statute of the International Criminal Court, Act No. 27 of 2002 (*available at the South African government portal, <http://www.info.gov.za/gazette/acts/2002/a27-02.pdf> (official source)*).

South African courts assume jurisdiction over a crime of genocide, a crime against humanity, or a war crime if:

- The crime was committed in South African territory;
- The suspect is a South African citizen;
- The suspect is a resident of South Africa;
- The suspect, after having committed the alleged crime, is present in South African territory; or
- The alleged crime was committed against a South African citizen or resident. (*Id.* § 4(3).

Spain

Spain ratified the Rome Statute on October 4, 2000 (BOLETIN OFICIAL DEL ESTADO, Oct. 5, 2000, *available at <http://www.boe.es/boe/dias/2000/10/05/pdfs/A34138-34140.pdf>*).

Organic Law 15/2003 (*available at <http://www.boe.es/boe/dias/2003/11/26/pdfs/A41842-41875.pdf>* (last visited Apr. 27, 2010)) amended the Spanish Criminal Code (*available at http://www.iccnw.org/documents/Spain_ImplementingLegislation_Aug05.pdf* (last visited Apr. 27, 2010)) to include a chapter on crimes against humanity (arts. 607 bis to 616 bis).

Article 23.4 of the Organic Law on the Judicial Branch, Law 6/1985 of July 1, 1985 (*available at http://noticias.juridicas.com/base_datos/Admin/lo6-1985.11t1.html#a23* (last visited Apr. 28, 2010)) establishes the universal jurisdiction of Spanish courts in cases of crimes against humanity. This provision is currently under consideration for amendment to restrict it.

Additional information from an article by Professor José Acosta-Estévez (*in THE NEW CHALLENGES OF HUMANITARIAN LAW IN ARMED CONFLICTS* 269 (P.A. Fernandez-Sanchez ed., 2005)) is attached. The Center for Justice and Accountability also provides information, in English, on its website (<http://www.cja.org/article.php?id=472> (last visited Apr. 27, 2010)).

Sweden

According to an article published in the INTERNATIONAL CRIMINAL LAW REVIEW (Mark Klamberg, *International Criminal Law in Swedish Courts: The Principle of Legality in the Arklöv Case*, 9 INT'L CRIM. L. REV. 395-409 (2009)), Swedish courts directly apply international law, so that treaties and customary international law on humanitarian issues are used to determine whether a crime against international law has been committed. Under Chapter 22, Section 6, of the Swedish Penal Code, this jurisdiction applies to serious violations of international law, which includes attacks on civilians. (Swedish Penal Code, 1962, as translated in 1999, http://www.sweden.gov.se/content/1/c6/01/51/94/_add334ba.pdf (last visited Apr. 26, 2010).)

In general, the Code applies to crimes committed in Sweden and to those outside the country under a number of circumstances, including when the minimum punishment for the crime under Swedish law is imprisonment for four years (Penal Code, ch. 1, § 3 (7)).

Sweden criminalized genocide in a separate law, the Genocide Act (art. 169 of the SWEDISH STATUTE BOOK, Act of Mar. 20, 1963), but is now considering replacing it with a new Swedish Act of International Crimes. (Klamberg, *supra*, at 399). There is no separate specific law on crimes against humanity; the government has argued that such offenses are already part of the criminal law of the country. Torture is to be punished as a form of assault. (*Id.* at 398.)

Switzerland

Switzerland cooperates with the International Criminal Court under a Federal Act on Cooperation with the ICC (Bundesgesetz über die Zusammenarbeit mit dem Internationalen Strafgerichtshof, June 22, 2001, SYSTEMATISCHE SAMMLUNG DES BUNDESRECHTS [SR] 351.6, translation available at [http://www.nottingham.ac.uk/shared/shared_hrlcicju/Switzerland/Federal Law on Co-Operation with the International Criminal Court.pdf](http://www.nottingham.ac.uk/shared/shared_hrlcicju/Switzerland/Federal%20Law%20on%20Co-Operation%20with%20the%20International%20Criminal%20Court.pdf)) but has not enacted Swiss criminal provisions on crimes against humanity or jurisdictional provisions for such crimes. While the Swiss Penal Code (Strafgesetzbuch, Dec. 21, 1937, *as amended*, SR 311.0) contains no provisions on crimes against humanity, it does contain a provision on genocide that also provides Swiss criminal jurisdiction over the offense if it was committed abroad and the perpetrator was apprehended in Switzerland but cannot be extradited (*id.* art. 264).

Trinidad and Tobago

The relevant provisions on crimes against humanity in Trinidad and Tobago law are found in the International Criminal Court Act 2006, 2006 Trin. and Tob. Laws, No. 4, § 10 (*available*

at [http://www. nottingham .ac.uk/shared/ shared_hrlcicju/ Trinidad and Tobago / Trinidad Tobago The International Crimi nal Court Act 2006.pdf](http://www.nottingham.ac.uk/shared/shared_hrlcicju/Trinidad_and_Tobago/Trinidad_Tobago_The_International_Criminal_Court_Act_2006.pdf) (last visited April 27, 2010)).

The Act applies to all persons who commit a crime against humanity after it came into force, regardless of whether the crimes were committed in Trinidad and Tobago or elsewhere. The Act does not state that a person must be present in Trinidad and Tobago before he or she can be accused of a crime against humanity.

United Kingdom

The relevant provisions on crimes against humanity under United Kingdom law are contained in the International Criminal Court Act 2001, c. 17, http://www.opsi.gov.uk/acts/acts2001/pdf/uk_pga_20010017_en.pdf. This is the original, as published version and does not take into account any amendments that may have occurred. Explanatory notes to this Act are also available at http://www.opsi.gov.uk/acts/acts2001/en/ukpgaen_20010017_en_1 (last visited Apr. 29, 2010). This section provides that the jurisdiction contained in that Act for the offenses of genocide, crimes against humanity, and war crimes applies to acts committed in England or Wales and to those outside the UK by a UK national, resident, or person subject to UK service jurisdiction (which is defined later in section 67).

Northern Ireland is also included in the scope of the Act's jurisdiction by virtue of section 58.

Scotland has separate legislation—the International Criminal Court (Scotland) Act 2001, ASP [Act of Scottish Parliament] 13, *available at* [http://www.opsi.gov.uk/legislation/scotland/acts2001/ asp_20010013_en_2#pt1-pb1-11g1](http://www.opsi.gov.uk/legislation/scotland/acts2001/asp_20010013_en_2#pt1-pb1-11g1). The jurisdiction applies to acts committed in Scotland or outside the UK by a UK national or resident.

Uruguay

Uruguay ratified the Rome Statute on June 27, 2002 (BOLETIN OFICIAL DEL ESTADO, July 8, 2002, *available at* <http://www.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=17510&Anchor=>).

Law 18026 of September 25, 2006 (*available at* the legislative website, <http://www.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=18026&Anchor=>) implements the Rome Statute and amends its Criminal Code accordingly.