Strasbourg, 6 December 2001

Consult/ICC (2001) 32
English only

THE IMPLICATIONS FOR COUNCIL OF EUROPE MEMBER STATES OF THE RATIFICATION OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

LES IMPLICATIONS POUR LES ETATS MEMBRES DU CONSEIL DE L'EUROPE DE LA RATIFICATION DU STATUT DE ROME DE LA COUR PENALE INTERNATIONALE

SWISS FEDERAL LAW OF 22 JUNE 2001 ON CO-OPERATION WITH THE INTERNATIONAL CRIMINAL COURT (CICCL)

Unofficial Translation

Federal Law on Cooperation with the International Criminal Court (CICCL) of 22 June 2001

The Federal Assembly of the Swiss Confederation,

based on article 123 paragraph 1 of the Federal Constitution ,after examining the message of the Federal Council of 15 November 2000 ,

decides:

Chapter 1: General provisions

Art. 1 Object

1 This law shall govern cooperation with the International Criminal Court (Court), established by the Rome Statute of the International Criminal Court of 17 July 1998 (Statute).

2 It shall regulate in particular:
a. the surrender of persons being prosecuted and of persons convicted by the Court (Chapter 3);
b. other forms of cooperation (Chapter 4);
c. the enforcement of penalties of the Court (Chapter 5).

Art. 2 Applicable law

Cooperation with the Court shall be rendered exclusively in accordance with the provisions of this law and the provisions of the Statute.

Chapter 2: Cooperation with the Court

Section 1: Principles of cooperation

Art. 3 Central Authority

1 The Federal Office of Justice shall administer a Central Authority for cooperation with the Court.

2 The Central Authority shall have the following responsibilities in particular:

a. It shall receive the requests of the Court.
b. It shall decide on the admissibility of cooperation, on cooperation procedures, and, if applicable, challenge the jurisdiction of the Court.
c. It shall order necessary measures, the scope of these measures, and the manner of execution of the request, and it shall designate the federal authorities or the canton responsible for the execution of the request.
d. It shall appoint, where necessary, an official counsel.
e. It shall surrender to the Court persons being prosecuted and shall transmit to the Court the results of the execution of the request.
f. It shall forward to the competent authorities requests of the Court to undertake prosecutions in accordance with article 70 paragraph 4 subparagraph b of the Statute.
g. It shall decide on requests of the Court for enforcement of penalties.
h. It shall enforce fines and forfeitures.

Art. 4 Consultations

The Central Authority shall conduct consultations as indicated in article 97 of the Statute, in particular when the execution of a request:

a. would conflict with an existing fundamental legal principle (art. 93 para. 3 of the Statute);
b. would prejudice national security interests (art. 72 and art. 93 para. 4 of the Statute);
c. would interfere with an ongoing investigation or prosecution of a different case (art. 94 para. 1 of the Statute);
d. could violate State or diplomatic immunity (art. 98 in connection with art. 27 of the Statute).

Art. 5 Executing authorities

1 The cantonal and federal authorities designated to execute requests of the Court shall execute the measures ordered by the Central Authority expeditiously and without taking their own procedural steps of substantive nature.

2 Acts of the executing authorities cannot be appealed.

Art. 6 Immunities

1 On application by the Federal Department of Justice and Police (Department), the Federal Council shall decide on questions of immunity relating to article 98 in conjunction with article 27 of the Statute which arise in the course of the execution of requests..

2 Where paragraph 1 applies, the Department may order arrest or other preventive measures.

Section 2: Jurisdiction of the Court

Art. 7 Determination of jurisdiction

1 If the Court claims jurisdiction over proceedings, the Central Authority may, in agreement with the competent authorities in the Swiss proceedings, assert Swiss jurisdiction as indicated in article 18 of the Statute or may, if necessary, challenge the jurisdiction of the Court in accordance with article 19 of the Statute.

2 If the Central Authority does not challenge the jurisdiction of the Court or if the Court, upon consideration, reaches the conclusion that its jurisdiction takes precedence, then all documents pertaining to the proceedings shall be transmitted to the Court. The competent Swiss authorities shall suspend the proceedings.

3 Decisions on challenges to jurisdiction cannot be appealed.

Art. 8 Reporting of a crime and spontaneous transmittal of evidence and information

1 The Central Authority may, without a request from the Court, transmit to the Court evidence and information gathered by Swiss prosecution authorities for their own investigations, if criminal proceedings may be initiated or a pending investigation may be facilitated due to the transmission.

2 The transmission cannot be appealed.

Art. 9 Referral of a situation

1 The Federal Council shall decide whether a situation shall be referred to the Court as provided in article 14 of the Statute.

2 The Central Authority shall transmit the corresponding request to the Court.

Section 3: Communication with the Court

Art. 10 Form and transmission of requests of the Court

1 Requests of the Court shall be made in writing. The Central Authority may receive requests directly from organs of the Court.

2 Requests and supporting documentation shall be submitted in German, French, or Italian, or shall be accompanied by an officially certified translation into one of these languages.

3 Subject to subsequent confirmation through ordinary channels, requests for provisional measures, searches, arrests, and other urgent requests may be transmitted:
a. through the International Criminal Police Organization (Interpol); or
b. by any medium capable of delivering a written record.

4 The Central Authority shall immediately inform the Court of the inadmissibility or denial of a request and shall explain its decision. The Central Authority shall consult with the Court before the definite denial of a request.

Art. 11 Swiss requests

1 Cantonal or federal prosecution authorities may request the cooperation of the Court in the case of serious crimes. The Central Authority shall forward such requests to the Court.

2 The documents shall be transmitted in French or English, or be accompanied by a translation into one of these languages. For the rest, the conditions for requests of the Court shall apply by analogy to Swiss requests.

3 Conditions placed by the Court on the execution of a request shall be respected by the Swiss authorities.

Art. 12 Costs

1 Requests of the Court shall as a rule be executed free of charge. Exceptions are:
a. costs associated with the travel and security of witnesses and experts or the transfer of persons in custody under article 93 of the Statute ;
b. costs of translation, interpretation, and transcription;
c. travel and subsistence costs of the Judges, the Prosecutor, the Deputy Prosecutors, the Registrar, the Deputy Registrar, and staff of any organ of the Court;
d. costs of expert opinions or reports requested by the Court;
e. costs associated with the transport of a person being surrendered to the Court;
f. following consultations, any extraordinary costs that may result from the execution of a request.

2 Federal and cantonal authorities shall not bill each other for charges or compensation for labor arising from the execution of a request of the Court.

3 Costs associated with detention ordered by the Central Authority and, if applicable, costs of the public defender are charged to the Confederation . The corresponding rates of the Court for compensation of the host State (art. 3 para. 1 of the Statute) are used as the basis of assessment.

Section 4: Further provisions

Art. 13 Transit

1 Upon request of the Court, the Central Authority may authorize the transit of a person in detention and the measures necessary for transit, without hearing the views of the affected person.

2 No authorization is required if the person in detention is to be transported by air over Swiss territory and no landing is scheduled.

3 If an unscheduled landing occurs, the person in transit shall be kept in custody . The Central Authority shall immediately ask the Court to make a request for transit. If the request is not received within 96 hours, the person shall be released. If the request is received after this period of time has elapsed, the person may again be arrested and the transit of the person may be authorized.

4 An authorization of transit cannot be appealed.

Art. 14 Competing requests

1 If Switzerland receives a request from the Court for the surrender of a person and a request from another State for the extradition of the same person, the Central Authority shall decide in accordance with article 90 of the Statute.

2 If Switzerland receives competing requests from the Court and from another State for a purpose other than arrest or surrender, the Central Authority shall decide in accordance with article 93 paragraph 9 of the Statute.

3 If the Central Authority has given priority to the request from the State, but if the request is then denied, the Central Authority shall notify the Court without delay.

Art. 15 Compensation

1 Provisions of federal law governing the compensation for unjustified detention and other disadvantages shall apply by analogy to proceedings against persons pursuant to a request of the Court that are conducted in Switzerland in accordance with this law.

2 Compensation may be reduced or denied if the person has provoked the investigation or detention through his fault or has, without reason obstructed or delayed the proceedings.

3 Compensation for detention in Switzerland pending surrender may also be reduced if the Court:

a. withdraws its request for arrest for the purpose of surrender; or
b. does not submit its request for surrender with supporting documentation within the deadline set.

4 Compensation shall be refused to the extent that the Court has awarded or denied compensation in accordance with article 85 of the Statute.

Chapter 3: Surrender of persons being prosecuted and of persons convicted by the Court

Section 1: Conditions

Art. 16 Principle

1 A person shall be surrendered to the Court if the request and supporting documentation indicate that the act is within the jurisdiction of the Court.

2 If the Court is considering a challenge to its jurisdiction in accordance with articles 17-19 of the Statute, the Central Authority may postpone the execution of a request until the Court has decided.

3 If a Swiss citizen is surrendered to the Court, the Central Authority shall request the repatriation of the citizen upon completion of the proceedings.

Art. 17 Content and documentation of the request

1 A request for arrest and surrender of a person for whom the Court has issued a warrant of arrest shall include:
a. a description of the person, sufficient to identify the person, and information as to that person's probable location;
b. a copy of the warrant of arrest;
c. the reason for arrest.

2 A request for the arrest and surrender of a person already convicted shall include:
a. a copy of the warrant of arrest;
b. a copy of the judgment of conviction;
c. if the person has been sentenced, a copy of the sentence imposed and, in the case of a sentence of imprisonment, a statement of any time already served and the time remaining to be served.

3 The request shall be accompanied by:
a. a concise statement of the relevant facts sufficient for a legal assessment of the act;
b. the applicable provisions of the Statute and of the Rules of Procedure and Evidence of the Court.

Section 2: Detention pending surrender and seizure

Art. 18 Search, arrest and seizure

1 Requests for search and arrest shall contain:
a. information as accurate and complete as possible describing the person sought, including information as to the person's probable location;
b. a short statement of the facts including, where possible, the date and place of the act;
c. a statement of the existence of a valid warrant of arrest or a judgment of conviction against the person;
d. a statement that a request for surrender will follow.

2 If the Central Authority honors the request, it shall initiate a search for the person and order the arrest and, if necessary, search of the person.

3 Upon arrest, objects and assets shall be seized that may serve as evidence in proceedings before the Court or that derive from the criminal act.

4 Arrest and seizure shall be reported to the Central Authority . The Central Authority shall inform the Court immediately and ask the Court to make a request for surrender.

Art. 19 Warrant for arrest pending surrender

1 In anticipation of arrest or immediately after arrest the Central Authority shall issue a warrant for arrest pending surrender. The warrant shall include:
a. information concerning the person being prosecuted and the alleged act;
b. notification that the Court is asking for the surrender of the person;
c. notice of the right to appeal as provided in paragraph 4 and of the right to counsel.

2 If the person is not fit to remain in detention or if otherwise justified, the Central Authority may, after informing the Court and giving full consideration to the Court's recommendations, order security measures other than detention.

3 Upon presentation of the warrant for detention pending surrender, the executing authorities shall ascertain whether the person is identical to the person designated in the request. The authorities shall explain to the person the conditions for surrender and for simplified surrender (art. 23). The person shall be questioned briefly regarding personal circumstances and whether and for what reasons the person objects to the warrant or to the surrender; the person's counsel may assist at this hearing.

4 The warrant for detention pending surrender may be appealed within ten days of written presentation of the warrant; appeals must be lodged with the Federal Supreme Court. Articles 214 et seq. of the Federal Law of 15 June 1934 on Federal Criminal Procedure shall apply by analogy .

Art. 20 Detention pending surrender

1 Detention pending surrender generally shall be maintained throughout the proceedings.

2 Detention may exceptionally be lifted at any stage of the proceedings if it appears justified under the circumstances. The person may at any time submit an application for interim release. Before reaching a decision, the Central Authority shall inform the Court and give full consideration to the Court's recommendations. The decision of the Central Authority may be appealed within ten days of written presentation of the decision; appeals must be lodged with the Federal Supreme Court. Articles 214 et seq. of the Federal Law of 15 June 1934 on Federal Criminal Procedure shall apply by analogy.

3 If the person already is being held in pre-trial detention or is serving a prison sentence, the warrant for detention pending surrender shall have the following effects in particular, subject to other instructions of the Court:

a. Without approval of the Central Authority, the person may neither be released nor deported from Switzerland.
b. Approval of the Central Authority shall be necessary for alleviation of the conditions of detention.
c. Visitation rights may only be granted and correspondence may only be censored in agreement with the Central Authority.

Art. 21 Release from detention pending surrender

1 If the request for surrender and supporting documentation are not received by the Central Authority, the Central Authority shall release from the detention pending surrender at the latest 60 days after the arrest.

2 If the person already is being held in pre-trial detention or is serving a prison sentence, the period of time in paragraph 1 shall begin upon transfer into detention pending surrender.

3 A release from detention as provided in paragraph 1 shall not prejudice subsequent arrest and surrender, if the request for surrender and supporting documentation are transmitted at a later time.

4 Articles 53–60 of the Federal Law of 15 June 1934 on Federal Criminal Procedure shall further apply by analogy to suspension of detention.

Section 3: Decision to surrender

Art. 22 Right to be heard

1 The request for surrender and supporting documentation shall be submitted to the person being prosecuted and, if applicable , to the person's counsel.

2 The executing authorities shall explain to the person the conditions for surrender and for simplified surrender; the executing authorities shall also inform the person of the right:

a. to challenge the jurisdiction of the Court;
b. to be defended by counsel of the person's choosing or, if the person does not have counsel, to have the Central Authority assign counsel or, if applicable, an official counsel.

3 The person shall be questioned briefly regarding personal circumstances and whether and for what reasons the person objects to the surrender; the person's counsel may assist at this hearing .

Art. 23 Simplified surrender

1 If the person being prosecuted waives the right to surrender proceedings and has the waiver put on record, the Central Authority shall authorize the surrender, unless there are exceptional misgivings.

2 The Central Authority may request the Court to supply the documentation specified in article 17, if the Central Authority deems this documentation necessary for authorization of the surrender.

3 The person may revoke the waiver in paragraph 1, as long as the Central Authority has not authorized the surrender.

Art. 24 Authorization of surrender

1 The Central Authority shall authorize the surrender of the person being prosecuted and the transmission of the seized objects and assets.

2 If the person or the Central Authority challenges the jurisdiction of the Court, the authorization shall be postponed until the Court has decided.

3 If third parties who have acquired rights in good faith, authorities, or victims whose usual residence is in Switzerland assert rights with regard to the seized objects or assets that may serve as evidence, their handing over shall be subject to the condition that the Court gives the guarantee to return them without cost after conclusion of the proceedings.

Art. 25 Execution of the surrender

1 The surrender shall be executed immediately. The Central Authority shall issue the necessary orders in agreement with the Court.

2 The Central Authority may postpone the execution of the surrender by a period of time agreed upon with the Court, if the person to be surrendered is being prosecuted in Switzerland for another criminal act or if the person is in detention.

3 If the surrender is denied, the Central Authority shall lift the detention pending surrender.

Art. 26 Temporary transfer

1 When article 24 paragraph 2 or article 25 paragraph 2 applies, the Central Authority may authorize temporary transfer of the person, if consultations with the Court indicate:
a. how long the Court requires the person;
b. that the person will remain in detention for the entire duration;
c. which proceedings the imprisonment will be counted toward;
d. that the person will be returned after completion of the proceedings, upon request of the Central Authority.

2 Until the Central Authority has decided on surrender, temporary transfer may only be undertaken in agreement with the person to be transferred.

Art. 27 Rule of speciality

A person surrendered to the Court may be prosecuted, punished, or detained by the Court for any act within its jurisdiction.

Art. 28 Costs

Personal property of the person being prosecuted may be used to cover Swiss costs, to the extent the property is not to be transmitted to the Court.

Chapter 4: Other forms of cooperation

Section 1: Conditions

Art. 29 Principle

1 Cooperation as provided in article 30 shall be granted to the Court if the request and supporting documentation indicate that the act is within the jurisdiction of the Court.

2 If the Court is considering a challenge to its jurisdiction in accordance with articles 17-19 of the Statute, the Central Authority may postpone execution of a request until the Court has decided; this shall not affect orders of preventive measures.

Art. 30 Forms of cooperation

Cooperation according to this chapter may include any procedural acts not prohibited by Swiss law that facilitate the investigation and prosecution of crimes within the jurisdiction of the Court or that serve to produce the proceeds of such crimes, in particular:

a. the identification and determination of the whereabouts of persons not being prosecuted by the Court or the location of objects;
b. the taking of evidence, including testimony under oath, and the production of evidence, including expert opinions and reports necessary to the Court;
c. the questioning of any person being investigated or prosecuted;
d. the service of documents, including judicial documents;
e. the temporary transfer of persons in detention as provided in article 39;
f. the examination of places or sites, including the exhumation and examination of grave sites;
g. the execution of searches and seizures;
h. the provision of records and documents, including official records and documents;
i. the protection of victims and witnesses and the preservation of evidence;
j. the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes for the purpose of eventual forfeiture.

Art. 31 Preserving measures

1 Upon the explicit request of the Court, the Central Authority may take preventive measures to maintain existing conditions, to protect threatened legal interests, or to preserve endangered evidence.

2 If delay was to jeopardize the proceedings , the Central Authority may order preventive measures as soon as a request is announced and sufficient information is available to assess the conditions. The preserving measures shall be lifted if the Court does not make the request within the period of time specified by the Central Authority.

Art. 32 Application of the procedures of the Court

Upon the explicit request of the Court, requests shall be executed in the manner specified by the Court, in particular:

a. The statements of witnesses and experts shall be substantiated in the manner prescribed by the Statute or the Rules of Procedure and Evidence of the Court.
b. The procedures necessary for judicial admissibility of other evidence may be taken into account.
c. Measures may be taken to ensure the safety or physical or psychological well-being of victims, any witnesses, and their families.
d. Persons involved in the proceedings before the Court may be allowed to participate in the execution of requests and to examine the records.

Art. 33 Handing over of evidence to another State

If the Court requests the consent of the Central Authority to forward evidence to another State that was transmitted to the Court by Switzerland, then:

a. the Central Authority shall grant the request in accordance with the provisions of this chapter if the act is within the jurisdiction of the Court;
b. proceedings in accordance with the provisions of the Federal Law of 20 March 1981 on Mutual Legal Assistance shall be undertaken, if the act is a serious crime under the domestic law of the requesting State.

Section 2: Specific forms of cooperation

Art. 34 Principles for questioning

1 If a person is questioned in a language other than a language the person fully understands and speaks, a competent interpreter and such translations as are necessary to meet the requirements of fairness shall be provided.

2 The person may refuse to make a statement if:

a. the person would thereby incriminate himself or herself or a person named in this regard in the Rules of Procedure and Evidence of the Court, or if the person would thereby confess guilt; or

b. by refusing to make the statement, the person intends to prevent the disclosure of confidential information pertaining to national security in accordance with article 72 of the Statute.

3 The person shall be informed, prior to being questioned, of the rights provided in paragraph 2.

4 If the person asserts a ground specified in paragraph 2, the Central Authority shall decide on the admissibility of the questioning.

Art. 35 Questioning of a suspect

1 Where there are grounds to believe that a person has committed a crime within the jurisdiction of the Court, the person shall also have the following rights in addition to those provided in article 34:

a. to be informed, prior to being questioned, that there are grounds to believe that he or she has committed a crime within the jurisdiction of the Court;

b. to remain silent, without such silence being a consideration in the determination of guilt or innocence;

c. to be defended by counsel of the person's choosing or, if the person does not have counsel, to have the Central Authority assign counsel or, if applicable, a public defender;

d. to be questioned in the presence of counsel, unless the person has voluntarily waived the right to counsel.

2 The person shall be informed, prior to being questioned, of the rights provided in paragraph 1.

Art. 36 Service of records

The Court may serve its decisions and other records or documents upon recipients in Switzerland directly by mail.

Art. 37 Summons

1 A summons to appear before the Court as a witness or expert shall be accompanied by the Rule of Procedure and Evidence of the Court on self-incrimination. The Rule shall be given to the person in a language that the person understands.

2 The person summoned is under no obligation to comply with the summons. If so requested, the Central Authority shall obtain written assurances from the Court guaranteeing the safe-conduct of the witness or expert.

Art. 38 Investigative measures on Swiss territory

1 Upon request of the Prosecutor, the Central Authority may authorize the Prosecutor to conduct investigative measures on Swiss territory as indicated in article 99 paragraph 4 of the Statute.

2 The Central Authority shall inform the authorities which would be responsible for the investigative acts according to Swiss law.

Art. 39 Temporary transfer of persons in detention

1 Persons not accused by the Court who are in detention in Switzerland may be transferred temporarily to the Court for purposes of identification, questioning, confrontation, or other investigative acts, if the person consents in full knowledge of the circumstances.

2 The Court shall grant the transferred person safe-conduct, keep the person in detention, and give assurances that the person will be returned once the purpose of the transfer is satisfied.

Art. 40 Handing over of evidence

1 Objects, documents, or assets that have been seized as evidence, as well as records and decisions shall be provided to the Court upon the request of the Court.

2 If third parties who have acquired rights in good faith, authorities, or victims whose usual residence is in Switzerland claim rights with regard to objects, documents, or assets as described in paragraph 1, their handing over shall be subject to the condition that the Court gives the guarantee to return them without cost after conclusion of the proceedings.

3 Transmission may be postponed as long as the objects, documents, or assets are required for criminal proceedings pending in Switzerland and if the Court consents upon consultation.

Art. 41 Handing over for forfeiture, transfer to the Trust Fund, or restitution

1 Objects or assets subject to a precautionary seizure may at any time, upon request, be transmitted to the Court for the purpose of forfeiture, transfer to the Trust Fund (art. 79 of the Statute), or restitution.

2 Objects and assets referred to in paragraph 1 include:
a. instruments which served to commit the crime;
b. the product or proceeds of a criminal act, their replacement value, and illicit advantages;
c. gifts and other contributions that served as or that were intended as an inducement or reward for the criminal act, as well as their replacement value.

3 Objects and assets shall remain seized until they have been transmitted to the Court or until the Court notifies the Central Authority that it waives transmission.

4 Objects and assets may be retained in Switzerland if:
a. the victim's usual residence is in Switzerland and the objects and assets are to be returned to the victim;
b. authorities assert rights over them;
c. a person not involved in the criminal act claims that he or she acquired rights to the objects and assets in good faith in Switzerland or, provided that the person's usual residence is in Switzerland, in a foreign country;
d. the objects or assets are required for criminal proceedings pending in Switzerland or they could be forfeited in Switzerland.

5 If a person asserts a claim provided for in paragraph 4, the handing over of the objects or assets to the Court is suspended until the legal situation is clarified. The contested objects or assets may only be handed over to the person if:
a. the Court consents;
b. the authorities consent in the case of paragraph 4 subparagraph b; or
c. Swiss authorities recognize the validity of the claim.

Section 3: Procedure

Art. 42 Content of a request

1 A request shall contain:
a. a concise statement of the essential facts underlying the request, as well as the legal description of the act;
b. information as accurate and complete as possible about the person against whom the criminal proceedings are being conducted;
c. a concise statement of the purpose of the request and the cooperation sought, including the legal basis and the grounds for the request;
d. if applicable, as much detailed information as possible about the location or identification of any person or about any place or site that must be found or identified in order for the cooperation sought to be provided;
e. if applicable, the reasons for and details of any procedure or condition to be followed.

2 If a request does not satisfy the requirements of paragraph 1, the Central Authority may ask that the request be improved or supplemented; this shall not affect orders of preserving measures.

Art. 43 Decision to proceed and execution of request

1 Upon considering the request, the Central Authority shall issue a decision to proceed containing a summary explanation that cannot be appealed . The Central Authority shall designate the federal authorities or the canton responsible for the execution of the request and shall order the measures admissible for cooperation.

2 If the immediate execution of a request would interfere with an ongoing investigation or prosecution of a case different from that to which the request refers, the Central Authority may postpone the execution of the request for a period of time agreed upon with the Court.

Art. 44 National security

1 If the Central Authority has serious grounds to believe that the execution of a request could prejudice national security interests, it shall immediately inform the Department.

2 Where paragraph 1 applies, the Department may suspend execution measures.

3 Upon request of the Department, the Federal Council shall deny the request of the Court for cooperation, to the extent that granting the request would prejudice national security.

Art. 45 Notification of decisions

1 The executing authorities and the Central Authority shall notify their decisions upon the persons who, as provided in article 50, have a right to appeal and whose usual residence or service address is in Switzerland.

2 The right to notification shall expire once the order terminating the proceedings is executory.

Art. 46 Assistance at the proceedings and access to the files

1 To the extent necessary to protect their interests, persons may assist at the proceedings and examine the records.

2 The rights provided in paragraph 1 may, to the extent necessary, be restricted:
a. in the interest of the proceedings before the Court;
b. to protect an essential legal interest, provided that the Court asks for such protection;
c. due to the nature or the urgency of the measures to be taken;
d. to protect essential private interests;
e. in the interest of Swiss proceedings.

3 The holders of documents have the right to inform their clients of the existence of a request and of all facts related to it, provided this has not expressly been prohibited by the Central Authority either in exceptional circumstances or upon request of the Court and under menace of sanctions as provided in article 292 of the Criminal Code .

Art. 47 Simplified procedure

1 Persons who, as provided in article 50, have a right to appeal, in particular the holders of objects, documents, information, or assets, may consent to the handing over thereof to the Court until completion of the proceedings. Such consent shall be irrevocable.

2 If all persons entitled according to paragraph 1 give their consent, the executing authorities shall record this consent in writing and notify the Central Authority. The Central Authority shall complete the proceedings without issuing a final order.

3 If the handing over includes only part of the requested objects, documents, information, or assets, the regular procedure shall be followed for the remainder.

Art. 48 Final decision

When the Central Authority considers a request to be entirely or partially completed, it shall issue an decision, with reasons on whether cooperation is granted and to what extent.

Section 4: Appeals

Art. 49 Administrative court appeal

The final order of the Central Authority shall be subject to administrative court appeal to the Federal Supreme Court.

Art. 50 Right to appeal

Shall be entitled to appeal whoever :
a. is not accused in the proceedings before the Court;
b. is personally and directly affected by a measure;
c. has an interest worthy of protection in the modification or suspension of the decision; and
d. cannot assert his or her rights before the Court or cannot reasonably be expected to do so.

Art. 51 Grounds and deadline for appeal

1 Appeals may be lodged to allege violations of federal law, including excess or abuse of discretion.

2 If the appellant asserts grounds which, according to the provisions of the Statute, may only be adjudicated by the Court, then the Central Authority shall forward the appeal to the Court, unless the Court has already decided.

3 Appeals against a final order must be lodged within ten days of notification of the order.

4 The person entitled who intervenes in a pending proceeding may no longer challenge decisions that have become executory.

Art. 52 Postponement of proceedings

1 Appeals have suspensive effect.

2 In urgent cases as indicated in article 99 paragraph 2 of the Statute, the Central Authority may apply to the Federal Supreme Court for annulment of the suspension.

3 If the Federal Supreme Court annuls the suspension, it may join this decision with the condition specified in article 93 paragraph 8 subparagraph b of the Statute.

Chapter 5: Enforcement of penalties of the Court

Section 1: Sentencing decisions

Art. 53 Conditions

1 Upon the request of the Court, Switzerland may accept the enforcement of a final and executable sentencing decision, if:
a. the convicted person is a Swiss citizen; or
b. if the person's usual residence is in Switzerland.

2 Fines may also be executed if the convicted person's usual residence is outside of Switzerland, but the person has assets in Switzerland.

Art. 54 Decision on the request of the Court for executing a sentence of imprisonment

1 Upon consultation with the authorities to be designated to execute sentences of imprisonment, the Central Authority shall decide on a request of the Court for executing a sentence of imprisonment.

2 If the Central Authority accepts the request, it shall notify the Court and transmit all relevant information regarding the execution of the sentence.

Art. 55 Execution of the sentence of imprisonment

1 Upon acceptance of the request by the Central Authority, the sentence of imprisonment imposed by the Court shall become executable in Switzerland. The sentence shall be binding; only the Court shall have the right to decide on any reduction of the term of imprisonment.

2 The sentence shall be executed in accordance with Swiss law, subject to paragraph 1.

3 Upon the request of the Court, the Central Authority shall transmit all relevant information concerning the execution of the sentence to the Court. The Court may at any time send one of its members to verify the conditions of imprisonment and meet unaccompanied with the convicted person.

4 Communications between the Court and the convicted person shall be confidential.

Art. 56 Requests of the convicted person

If the convicted person submits a request for conditional release, pardon, appeal, or retrial, the request shall be transmitted to the Central Authority. The Central Authority shall immediately forward the request with all useful documentation to the Court.

Art. 57 Costs

1 The Court shall be responsible for transportation costs as well as the costs specified in article 100 paragraph 1 subparagraphs c-e of the Statute.

2 The federal government shall be responsible for the remaining costs of the execution of sentences. The costs of detention shall be calculated on the basis of the rates for enforcement agreed upon between the Court and the host State in accordance with article 103 paragraph 4 of the Statute.

Section 2: Orders of forfeiture

Art. 58

Article 41 shall apply by analogy to the enforcement of orders of forfeiture, if the Court has already decided on the disposition of objects or assets in accordance with article 75 or 79 of the Statute and if the Court asks Switzerland for enforcement.

Chapter 6: Final provisions

Art. 59 Amendments to existing law

Existing legislation shall be amended as follows:

1. Federal Law of 20 March1981 on Mutual Legal Assistance

Preamble

pursuant to articles 103 and 114bis of the Federal Constitution ,
…

Art. 1 para. 1 Introduction

1 This law shall regulate all procedures pertaining to international cooperation in criminal matters, to the extent that other laws or international agreements do not determine otherwise, in particular:

2. Federal Decree of 21 December 1995 on Cooperation with the International Tribunals for the Prosecution of Serious Violations of International Humanitarian Law

Preamble

pursuant to the competence of the Confederation in foreign affairs ,
…
Art. 34 para. 4 (new)

4 The validity of this decree shall be extended until 31 December 2008.

Art. 60 Referendum and entry into force

1 This law shall be subject to a facultative referendum.
2 The Federal Council shall determine entry into force.

National Council, 22 June 2001 Council of States, 22 June 2001
The President: Peter Hess The President: Françoise Saudan
The Secretary: Ueli Anliker The Secretary: Christoph Lanz

Date of publication: 3 July 2001
Deadline for a referendum: 11 October 2001