

## ***The International Criminal Court***

*"...the impunity enjoyed by the perpetrators of the most serious crimes, such as genocide, crimes against humanity and war crimes, is an obstacle to reconciliation, fostering revisionism and depriving future generations of irrefutable evidence of such crimes"*

--Recommendation 1408 (1999) of the Parliamentary Assembly of the Council of Europe

The International Criminal Court (ICC) has the potential to help put an end to the past century's cycle of impunity for the most serious crimes of international concern. It will decide on the criminal responsibility of individuals and act as a strong deterrent for possible future perpetrators. In addition, the Court's effectiveness will lie in its deterrent force. The ICC's Statute places primary responsibility to prosecute with national jurisdictions. Only when a number of conditions are met will the ICC have jurisdiction over a matter. States parties to the Statute therefore make a commitment to investigate and prosecute such crimes before their own courts.

The *Ad Hoc* Criminal Tribunals for the former Yugoslavia and Rwanda, which have been established over the past decade, have made a significant contribution towards the development of international criminal law and justice.

The ICC will build on this background, but with the additional strength of being a permanent, treaty-based institution, for the prosecution of crimes committed after its creation. The ICC will be formally established after 60 countries have ratified the Statute.

Currently the Statute has been signed by 96 and ratified by 9 countries, three of which are members of the Council of Europe.

THE CONSULTATION MEETING IS A JOINT INITIATIVE OF THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC) AND THE *Ad Hoc* COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI) OF THE COUNCIL OF EUROPE. IT IS ORGANISED WITHIN THE FRAMEWORK OF THE INTERGOVERNMENTAL LEGAL CO-OPERATION PROGRAMME.

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## **CONSULTATION**

**ON**

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



**Council of Europe**  
**Palais de l'Europe, Room 5**  
**Strasbourg, 16-17 May 2000**

**Implications for Council of Europe member states of ratification of the Statute of the International Criminal Court**

International criminal law and justice have developed considerably over the past century. With the adoption of the Statute of the International Criminal Court (ICC) in 1998 and the impetus given by Governments to its signature and ratification, states are now faced with the often difficult task of bringing their internal legal order in line with the Statute.

The importance of this implementation exercise lies, first and foremost, in the *obligations* which ensue from the ratification of the Statute. Procedures must be available, at the national level, to enable national authorities to co-operate with the organs of the future ICC. Secondly, since the responsibility to prosecute lies primarily with States and the ICC's jurisdiction is *complementary*, if a State intends to be in a position to try persons in its own courts for genocide, crimes against humanity and war crimes, adequate substantive and procedural legislation must be in place at the national level.

In this context, the Council of Europe is convening a consultation meeting, open to member and observer States, to foster an exchange of views on the legal problems encountered in the implementation process and on models developed in particular countries to overcome these problems.

On the basis of existing implementing legislation and of a report compiling replies to a questionnaire on the ratification and implementation process, participants at this consultation meeting will be able to contribute to the search for ways and means to facilitate the implementation process at the level of the Council of Europe.

The results of this exercise will be transmitted to relevant instances and they might also serve as a model for other regions.

**Programme**

**Tuesday, 16 May 2000**

- 9.00 **Registration of participants**
- 9.30 **Opening of the meeting**
- Mr. Guy DE VEL, Director General of Legal Affairs of the Council of Europe
  - *Election to the Chair*
- 10.00 **The Rome Statute of the International Criminal Court: outstanding issues**
- Introduction:  
Mr Juan Antonio YÁÑEZ-BARNUEVO
  - Discussion
- 10.30 **Elements of crimes**
- Introduction:  
Mr Herman VON HEBEL
  - Discussion
- 11.00 *coffee break*
- 11.20 **Ratification of the Statute and the implementation process**
- Introduction: Mr Jürg LINDENMANN
  - Discussion
- 13.00 *Luncheon*
- 14.30 **Guidelines for the implementation of the Statute - Discussion**
- On the basis of replies and supporting documentation received from member and observer States, the Secretariat will prepare for discussion at the meeting a set of draft guidelines including model solutions for incorporating the provisions of the ICC Statute into national legislation.*
- 17.30 End of the session

**Wednesday, 17 May 2000**

- 9.30 **Co-operation with the International Criminal Court**
- The issue of sui generis co-operation between States and the ICC should be discussed in detail. Consideration should be given to a possible role for the Council of Europe in facilitating the development of European standards of co-operation in the field of international criminal law.*
- 12.00 **Discussion and adoption of conclusions**
- On the basis of the discussions, the Secretariat will prepare draft conclusions for discussion and adoption at the meeting. Possible guidelines for the practical implementation of the Rome Statute and for co-operation with the ICC could be produced for publication and distribution following the consultation meeting.*
- The conclusions and guidelines will be submitted to the Committee of Ministers of the Council of Europe, to the European Committee on Crime Problems (CDPC) and to the Ad Hoc Committee of Legal Advisers on Public International Law (CAHDI). They could also be presented during the 5<sup>th</sup> session of the UN Preparatory Commission for the International Criminal Court, to be held in June 2000.*
- 12.30 **Closing of the meeting**
- 13.00 *Luncheon*