

## **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 or to defer jurisdiction to the ICC if they are unwilling or unable to do so.

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 139 and ratified or acceded to by 37 countries, 16 of which are members of the Council of Europe.

## **Implementation of the Statute of the International Criminal Court**

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 ICC's jurisdiction is complementary and responsibility to prosecute therefore lies primarily with States, if a State is to be in a position to try persons in its own courts for the crimes covered by the Statute of the ICC, adequate substantive and procedural legislation must be in place at national level.

In May of 2000 the Council of Europe convened a first consultation meeting open to member and observer States and Organisations, 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. Now that the number of ratifications by Council of Europe member States has grown to 16, a second consultation meeting is being held in Strasbourg on 13-14 September 2001. The holding of this follow-up meeting is a priority of the Liechtenstein Presidency of the Committee of Ministers. The Council of the European Union also recently adopted a common position to support an early entry into force of the Rome Statute and to promote initiatives related to its implementation.

THE CONSULTATION MEETING IS A JOINT INITIATIVE OF THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC) AND THE COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI) OF THE COUNCIL OF EUROPE. IT IS ORGANISED WITHIN THE FRAMEWORK OF THE PROGRAMME OF ACTIVITIES IN THE LEGAL FIELD.

For more information and documentation on the Council of Europe's activities in this area, visit our website at <http://www.legal.coe.int/criminal/icc>



## **SECOND 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 2  
Strasbourg, 13-14 September 2001**

## Programme

### Thursday, 13 September 2001

- 9.00 *Registration of participants*
- 9.15 **Opening of the meeting**
- Hans-Christian KRÜGER, Deputy Secretary-General of the Council of Europe
  - Ambassador Josef WOLF, Permanent Representative of Liechtenstein to the Council of Europe (Chairmanship of the Committee of Ministers)
  - Mr Marc VERWILGHEN, Minister of Justice of Belgium (Presidency of the European Union)
- Election of the Chair
- 9.45 **The Rome Statute and Human Rights – Selected Issues**
- Key-note speaker: Mr Lucius CAFLISCH, Judge of the European Court of Human Rights
- Discussion
- 10.30 – 10.45 *break*
- 10.45 **Presentation of country report I – Finland**
- Rapporteur: Ms Sari MAKELA  
Legal Officer, Ministry for Foreign Affairs
- Discussion (20 “)
- 11.30 **Presentation of country report II - Switzerland**
- Rapporteur: Mr Juerg LINDENMANN  
Deputy Legal Adviser  
Federal Department of Foreign Affairs
- Discussion
- 12.15 **ICC ratification or implementation developments:** General round of brief interventions from the floor to supplement (update) the information in written contributions
- 12.45 *Lunch break*

### SESSION I

- 14.30 **National and international immunities and the implementation of the Rome Statute**
- Rapporteur: Ms Marie-Claire GERARDIN, Special Adviser to the Director of Legal Affairs, Ministry of Foreign Affairs, France
  - Panel discussion
- 16.00 – 16.15 *break*
- 16.15 Discussion, Summing up and conclusions of the session
- 17.30 End of Session I
- Vin d'amitié, offered by the Permanent Representation of Liechtenstein  
Restaurant Bleu, Palais de l'Europe*

### Friday, 14 September 2001

### SESSION II

- 9.30 **Surrender to the ICC and other issues of co-operation, such as:**
- Transit of persons to the ICC
- Rapporteur: Mr Jaap ROORDING, Legal Adviser, Ministry of Justice, The Netherlands
- Enforcement of Sentences
- Rapporteur: Mr Gavin WATSON, Assistant Legal Adviser, Foreign and Commonwealth Office, United Kingdom
- Panel discussion
- 10.45 – 11.00 *break*
- 11.00 Discussion, Summing up and conclusions of Session II
- 12.30 *Lunch break*

### SESSION III

- 14.00 **Substantive criminal law**
- Presentation of the Estonian implementation approach by Mr Martin ROGER, Attaché, Ministry of Foreign Affairs
  - Presentation of the German implementation approach
  - Panel discussion
- 15.30 – 15.45 *break*
- 15.45 Discussion, Summing up and conclusions of Session III
- 17.00 Discussion and adoption of conclusions to the meeting
- The conclusions will be submitted to the Committee of Ministers of the Council of Europe, to the European Committee on Crime Problems (CDPC) and to the Committee of Legal Advisers on Public International Law (CAHDI) for consideration in their work.*
- 17.30 **Closing of the consultation meeting**
- Participants are delegates from member and observer Governments and Inter-Governmental Organisations who are responsible for implementation of the ICC Statute in their respective countries and Organisations.
- Any further written contributions submitted during or following the meeting should be submitted to the Secretariat, wherever possible also by electronic transmission to [icc@coe.int](mailto:icc@coe.int)
- Contributors must specify whether documents are for public or restricted use.
- Public documents are to be found on the website (<http://www.legal.coe.int/criminal/icc>), whereas any restricted documents will be distributed to country liaison officers and other registered meeting participants.
- The working languages (including documentation) of the meeting are English and French. Interpretation from and into Russian will also be provided.