

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.

To date, the Statute has been signed by 139 countries and ratified by 90, 38 of which are members States of the Council of Europe. The Statute entered into force on 1 July 2002.

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 genocide, crimes against humanity and war crimes, adequate substantive and procedural legislation must be in place at national level.

In May 2000 and September 2001, the Council of Europe convened two consultation meetings 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. Participants at these meetings adopted conclusions which they transmitted to their governments. The Rome Statute having entered into force, it is now important to take stock of the situation.

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



PROGRAMME

THIRD

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, Meeting room 7
Strasbourg, 17 September 2003

Wednesday, 17 September 2003

- 9.00 Registration of participants
- 9.30 **Opening of the meeting**
- Mr Robert LAMPONI, Director of Legal Co-operation, Council of Europe
 - Ms Victoria IFTODI, Vice-Minister of Justice of Moldova, Presidency of the Committee of Ministers of the CoE
 - Mr Roberto BELLELLI, Presidency of the European Union
 - Mr Mauro POLITI, Judge at the International Criminal Court
- 10.15 **Election of the Chair**
- 10.30 Break
- 10.50 **Conditions for the application of the Statute of the International Criminal Court**
- Speaker:* Mr Mauro POLITI, Judge at the International Criminal Court
- 11.30 Discussion
- 12.30 Lunch
- 14.00 **Universal jurisdiction and obligations under international law – the extension of jurisdiction to include the prosecution of genocide, war crimes and crimes against humanity**
- Rapporteur:* Mr Pal WRANGE (Sweden)
- 14.45 Discussion



Wednesday, 17 September 2003 cont.

- 15.15 Break
- 15.30 **Interaction between universal jurisdiction at national level and co-operation with the ICC – the scope of universal jurisdiction, the advantage of transferring cases to the ICC, transfer to the ICC in cases of immunity impeding criminal prosecution at national level**
- Rapporteurs : Mr Josef BRINK and Mr Eberhard DESCH (Germany)
- 16.15 Discussion
- 16.45 **Summing-up and conclusions of the consultation**
- 18.00 Closing of the consultation meeting

The conclusions will be submitted to the Committee of Ministers of the Council of Europe, the Committee of Legal Advisers on Public International Law (CAHDI) and the European Committee on Crime Problems (CDPC) and relevant organisations.

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.

Public documents are to be found on the website (<http://www.coe.int/tcj>), whereas any restricted documents will be distributed to country liaison officers and other registered meeting participants. In preparation for this meeting, the documentation on the website will be updated. Participants are kindly requested to provide the Secretariat with any information which will update this documentation.

Written contributions should be submitted to the Secretariat, wherever possible by e-mail to icc@coe.int. Contributors should specify whether documents are for public or restricted use.

The working languages (including documentation) of the meeting are English and French.

For any further information:

Council of Europe
Directorate General for Legal Affairs
F 67075 Strasbourg cedex (France)
Tel. +33 (0)390213459 or +33 (0)388413479
Tel. +33 (0)388412764

Programme:
rafael.benitez@coe.int
caterina.bolognese@coe.int

Organisation:
saskia.daniell@coe.int