

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. The Court's effectiveness will lie precisely in this deterrent force and in its effective co-operation with states. The ICC's Statute places primary responsibility to prosecute with national courts. Only when a number of conditions have been met will the ICC have jurisdiction. 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 were established over a decade ago, have made a significant contribution towards the development of international criminal law and justice.

The ICC will build on this *acquis*, with the additional strength of being a permanent, treaty-based institution, to prosecute crimes committed after its creation.

To date, the Statute has been signed by 139 countries and ratified by 100, 38 of which are members States of the Council of Europe. The Statute entered into force on 1 July 2002.

The Fourth Consultation

Participants are delegates from member and observer states who are responsible for the implementation of the Rome Statute of the ICC, as well as representatives of intergovernmental organisations.

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

The meeting will be held immediately after the 32nd meeting of the Council of Europe Committee of Legal Advisers on Public International Law (CAHDI), which will be held in Athens, 13-14 September 2006 (closing on 14 September 2006 at 13.00).

Delegations are invited to submit any written contributions in time for distribution to other delegations and possible translation.

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**FOURTH
CONSULTATION
ON
THE IMPLICATIONS FOR
COUNCIL OF EUROPE
MEMBER STATES
OF THE RATIFICATION OF THE
ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**



**Athens, Greece
14-15 September 2006**

www.coe.int/cahdi

Implementation of the Statute of the International Criminal Court

Since the adoption of the Statute of the International Criminal Court (ICC) in 1998 and the subsequent 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 to enable national authorities to co-operate with the ICC. Secondly, since the ICC's jurisdiction is complementary and responsibility to prosecute therefore lies primarily with States, adequate substantive and procedural legislation must be in place at national level if a State is to be in a position to try persons in its own courts for genocide, crimes against humanity and war crimes.

Since 2000, the Council of Europe has organised three consultation meetings open to member and observer States, to foster exchanges of views on the legal problems encountered in the implementation process and on models developed in certain 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 and consider ways and means of contributing to its effectiveness.

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 WITH THE FINANCIAL SUPPORT OF THE GOVERNMENTS OF FINLAND, GREECE AND SWITZERLAND.

Programme

Thursday, 14 September 2006

- 14.30 Registration of participants
- 15.00 **Opening of the meeting**
- 15.45 **Election of the Chair**
- 16.00 **The International Criminal Court**
This section will bring together top officials from the ICC in order to provide an insider's perspective on the Court, its functioning and the challenges ahead. Moreover, it will provide an opportunity for participants to exchange views with Court officials.
Keynote speeches by Philippe Kirsch, President of the ICC and Luis Moreno-Ocampo, Chief Prosecutor at the ICC followed by discussion
- 17.30 Break
- 18.00 **Recent developments at national level**
This section will allow delegations to report on recent developments concerning accession to the Rome Statute and the Agreement on Privileges and Immunities, and their implementation.
Presentations should be limited to 5 minutes and, if possible, be accompanied by a written version which should be submitted to the Secretariat before the meeting.
- 19.00 Close
- 20.00 Social event

Friday, 15 September 2006

- 9.30 **The principle of complementarity: state of play**
This section looks at the interaction between ICC jurisdiction and that of national courts. It also addresses the issue of jurisdiction at national level and co-operation with the ICC, including the practical advantages of transferring cases to the ICC.
Introductory report by Gerard Dive, Head of the IHL Division, Ministry of Justice, Belgium
- 11.30 Coffee break
- 12.00 **Bilateral agreements on witnesses and on the execution of the Court's decisions**
This section covers two important questions. Firstly, bearing in mind the experience of other international criminal tribunals, it looks at the challenges posed by the protection of witnesses who are often key to successful prosecution. Secondly, it looks at ways and means of ensuring the execution of the ICC's decisions and, thereby, its effectiveness.
Introductory report by John Hocking, Deputy Registrar, International Criminal Tribunal for the former Yugoslavia, The Netherlands
- 14.00 Lunch break
- 15.30 **Moving ahead towards effective implementation**
This section looks at ways and means of coordinating efforts for the implementation of the Rome Statute with a view to achieving the best results through networking, including the preparation of supporting tools (model-laws, guides to practice, etc).
Introductory report by Maria Teresa Dutli, Head of the Legal Advisory Service, ICRC
- 17.30 **Presentation and adoption of Conclusions**