

ABSTRACT

Principle of complementarity in the Rome Statute

The thesis provides a reader with analysis of non/operation of principle of complementarity in practice of the International Criminal Court. The principle of complementarity concerns rules governing a relationship between national courts and the ICC in the context of exercise of jurisdiction over the crimes under international law covered by the Rome Statute. From the beginning, the principle of complementarity has been considered as a cornerstone of the Rome Statute and has been often contrasted with principle of primacy enjoyed by the International Criminal Tribunal for Former Yugoslavia and International Criminal Tribunal for Rwanda. During the adoption of the Rome Statute, both the states and researches expected that thanks to complementarity the ICC would act only as a court of a last resort and would exercise its jurisdiction only if states endowed with jurisdiction would be unwilling or unable to investigate or prosecute those responsible for international crimes in jurisdiction of the ICC. The amount of emphasis put on unwillingness or inability of states to investigate and prosecute should have guaranteed a balance between a protection of state sovereignty and effective and credible operation of the International Criminal Court. The dissertation theses then illustrates, with help of up today jurisprudence of the International Criminal Court, that such expectations have been so far being proved rather illusionary. Mainly because the ICC in its decisions on admissibility has taken rather restrictive approach while interpreting the key Articles of the Rome Statute, i.e. Article 17 and 19 of the Statute. While this interpretative restrictive approach of the admissibility issues might be justifiable by linguistic or logic interpretation, it is a question whether it has been also reflected the principle of complementarity which should have guaranteed a rather supplementary role of the ICC, while the primary role in fight against impunity should have rested with the states.

Key words

International Criminal Court, Complementarity, Admissibility.