

The International Criminal Court and the principle of complementarity

Abstract

The principle of complementarity is often referred to as the cornerstone of the International Criminal Court's functioning („Court“ or „ICC“), so the purpose of my thesis is to analyze complementarity in more detail. The Preamble of the Rome Statute („Statute“) provides that the Court „*shall be complementary to national criminal jurisdictions*“. Complementarity means that the ICC will act only when domestic authorities fail to take the certain steps in the investigation or prosecution of crimes enumerated under article 5 of the Statute.

My thesis consists of seven chapters. First three chapters are introductory and show a historical and practical background of the establishment of the ICC.

Chapter four explains that there exist various forms of the relationship between an international criminal jurisdiction and national jurisdictions, not just complementary. This chapter is subdivided into several parts which firstly describe a particular forms of these relationships and then give an example of such a relations existing in reality.

The following chapter inquires into the roots of complementary idea. It highlights that the principle of complementarity included in the Statute was not the outcome of the International Law Commission's work. According to Mohammed El Zeidy the concept of complementarity was introduced in the interpretation of the Treaty of Peace Between the Allied and Associated Powers and Germany, signed at Versailles after the first world war. This chapter further illustrates nature and contents of discussions taking place before the creation of the ICC.

The six chapter deals with the scope of article 17 of the Statute which lists conditions under which a case is inadmissible before the ICC. Subchapters deal with particular aspects of these conditions. As the notion of complementarity is not explicitly defined by the Statute, it is just the institute of admissibility which ensures that the ICC will act within the complementary regime.

The last chapter relates to the application of complementarity in practice – specifically in the case of Uganda. I focus on the interpretation of article 17 of the Rome Statute by the prosecutor, deciding whether to initiate an investigation and prosecution. Due to the course of events which took place in Uganda, the ICC raised admissibility question on its own motion

and the text outlines reasons which led the Court to declare the case admissible at this stage.

I expect Uganda to challenge the admissibility of the case pursuant to article 19 (2) (b) of the Statute. Therefore, in the end of this chapter I deal with preconditions for Uganda's success in it.