

EUROPEAN NEWSLETTER

The European bimonthly publication on the International Criminal Court

The Rome Statute of the ICC has:

100 ratifications

The Agreement on Privileges and Immunities of the Court has: **36 Ratifications & 62 signatories**

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“ICC PRIORITIES DURING THE AUSTRIAN PRESIDENCY OF THE EU”

During the Austrian EU-Presidency in the first semester of 2006 the enhancement of co-operation of both the EU and its Member States with the ICC, as well as the promotion of the universality of the Rome Statute through political dialogues between the EU and third countries (e.g. States that are not yet Parties to the Rome Statute) will dominate the ICC agenda.

Demarches in EU-Troika format in approximately 40 target countries will be conducted after having carried out consultations with EU Member States and NGOs. In these demarches the EU will reiterate the importance of accession, ratification and implementation of the Rome Statute and, where relevant, address concerns regarding Art. 98 paragraph 2 agreements.

Furthermore, in order to enhance universal acceptance of the Rome Statute and its core principles the EU will continue to refer to the ICC in its political and human rights dialogues with third countries in line with the EU Action Plan and the Council Common Position of 16 June 2003.

During the Austrian Presidency the COJUR sub-area ICC working group will convene in Brussels for three meetings. At those meetings representatives of the ICC and the ICTY will give presentations on aspects of co-operation and an informal exchange of views with NGOs will take place. A main objective of the Austrian Presidency in the field of co-operation with the ICC will be the completion of the negotiations on the EU-

ICC Co-operation and Assistance Agreement that will cover issues of co-operation such as the exchange of information and documents between the Court and the EU.

On 29 May 2006 the Austrian Presidency will host a Conference on the ICC with representatives of the CIS countries in the city of Salzburg, Austria. This will also be an opportunity to meet with representatives of the NGOs and discuss the fundamental principles of the Rome Statute, as well as issues and concerns related to accession, ratification and implementation of the Rome Statute.

Finally, a meeting of the European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes is planned towards the end of the Austrian EU-Presidency.

The Austrian Presidency of the EU

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EU FOCUS

THE EU ADOPT THE 'GUIDELINES ON THE PROMOTION OF INTERNATIONAL HUMANITARIAN LAW'

To access the guidelines on the Promotion of International Humanitarian Law, please visit:

http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/c_327/c_32720051223en00040007.pdf

The Council of the European Union adopted on 12 December 2005 the 'Guidelines on the Promotion of International Humanitarian Law'. The purpose of these guidelines is to set out operational tools for the European Union and its institutions and bodies to promote compliance with international humanitarian law (IHL). The International Criminal Court is mentioned in several parts of the guidelines. In particular, under the 'crisis-management operations' paragraph, the guidelines, mention the importance of preventing and suppressing violations of IHL by third parties should be considered, where appropriate, in the drafting of mandates of EU crisis-management operations. In appropriate cases, this may include collecting information which may be of use for the ICC or in other

investigations of war crimes.

Also, the guidelines underline the importance of individual responsibility: the EU should make sure that there is no impunity for war crimes "To have a deterrent effect during an armed conflict the prosecution of war crimes must be visible, and should, if possible, take place in the State where the violations have occurred. The EU should therefore encourage third States to enact national penal legislation to punish violations of IHL. The EU's support of the ICC and measures to prosecute war criminals should also be seen in this context".

To access the guidelines please visit:

http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/c_327/c_32720051223en00040007.pdf

CALLS FOR PROPOSALS – EUROPEAN INITIATIVE FOR DEMOCRACY AND HUMAN RIGHTS

The European Commission has recently launched the new Calls for Proposals 2005/2006 under the European Initiative for Democracy and Human Rights (EIDHR). Following management problems experienced in the 2004 Calls for Proposals, and increasing pressure from human rights and democracy NGOs benefiting from this programme, the European Commission has adopted a new simplified and faster procedure, that will allow to manage the proposals that they will receive in a timely and efficient manner. To view the "Practical guide to contract procedures for EC external actions", please visit: http://europa.eu.int/comm/europeaid/tender/practical_guide_2006/index_en.htm.

The Call for Proposals for Campaign 1 promoting justice and the rule of law was launched on 20 December 2005. It is divided in three lots, the first one refers to the "Effective functioning of ICC and other International Criminal Tribunals, including their interaction with national justice systems" and will focus upon the following priorities:

- ◆ Support to the effective functioning of international criminal ad hoc tribunals;
- ◆ Promotion of an increased universality of the Rome Statute;

- ◆ Support to the preparation and the adoption of national legislations of implementation of the Rome Statute;
- ◆ Implementation of the complementarity principle between the ICC and the national judicial systems.

The Call was published on 20th December 2005 on the AIDCO website. For more information, please visit: <http://europa.eu.int/comm/europeaid/cgi/frage12.pl>. The deadline to submit proposals is 21 March 2006.

In the framework of the financial perspective 2007-2013, new financial instruments for external assistance have been adopted. The Commission has worked on a thematic programme on democracy and human rights, as foreseen in its Communication on *External Actions through Thematic Programmes under the Future Financial Perspectives 2007-2013* that would allow continuity with the current European Initiative for Democracy and Human Rights (EIDHR). A communication on this has been issued and a public consultation has been held that will allow the commission to prepare its programming document that should be published in June 2006.

For more information on the future of the EIDHR please visit: http://europa.eu.int/comm/europeaid/projects/eidhr/news_en.htm.

Six New Judges Elected to International Criminal Court Bench

On 26 January 2006, the ICC Member States elected six new judges to the ICC bench. Of these six, five had already served three years as ICC judges, with just one new appointee elected from Eastern Europe. The election of these new judges, who will each serve for a term of nine years, represents a notable new benchmark in gender balance at the international justice tribunals. With the election of three women yesterday – Professor Ekaterina Trendafilova (Bulgaria) who is a former Fulbright Scholar with a Ph.D in Criminal Justice from Sofia University, Professor Akua Kuenyehia (Ghana) who studied law at the University of Ghana and Oxford, and Professor Anita Ušacka (Latvia) who earned her Ph.D in Law at Moscow State University – the ICC bench now comprises eight women and ten men.

Of the ten candidates running for the new positions, five of the new appointees are currently sitting judges at the Court: Hans-Peter Kaul (Germany); Erkki Kourula (Finland); Akua Kuenyehia (Ghana); Sang-hyun Song (Republic of Korea); and Anita Ušacka (Latvia). The new appointee who has not yet served on the ICC bench is Ekaterina Trendafilova (Bulgaria). The new ICC judges will be sworn in on 11 March 2006 in The Hague. William Pace, Convenor of the Coalition for the International Criminal Court, said, “Many NGOs attending the Assembly of ICC States Parties yesterday noted the many important contributions made by Judge Slade to the Court over the past three years. Many CICC members were pleased with the qualifications of Judge Trendafilova who will be replacing Judge Slade.”

ICC ASSEMBLY OF STATE PARTIES

The 4th ICC Assembly of States Parties (ASP) convened in the Hague from November 28-3 December 2005, followed by a resumed session in New York.

The 4th ASP dealt with a number of issues, including but not limited to: provision of management oversight regarding the administration of the Court; consideration and adoption of the reports and activities of its Bureau and of the Court’s budget; states’ non-cooperation with the ICC; and performance of any other function consistent with the Rome Statute or the Rules of Procedure and Evidence.

More than 260 representatives from non-governmental organisations from all parts of the world attended this session of the ASP. The continued commitment of NGOs to invest time and resources in the ASP is a clear indication of the sustained support for the Rome Statute system. Although not always of the same opinion, the dialogue between the participating NGOs, on the one hand, and Court, ASP Secretariat and States Parties officials, on the other hand, was constructive and informative.

The fourth session demonstrated an increased readiness of States Parties to engage in issues beyond the Court’s most urgent operational issues before them, as well as a willingness to think more long-term and to accept the responsibility of the ASP and States Parties for the implementation of the Rome Statute in general. This was a welcome change from past sessions where lack of time and priority, as well as uncertainties about the ASP mandate, had been used as justification for not doing so. This trend was demonstrated in various ways:

- The incoming President and the new Bureau agreed to find time in the agenda for general statements, giving states the opportunity to make statements about their views on, and concerns about the ICC and the Rome Statute system. These declarations elevated the debate at the ASP and provided the Court and the Assembly with guidance about its general direction as well as set the framework for the discussions to follow on various future agenda items. This was a welcome addition to the agenda that many CICC

members had been advocating for prior to the meeting.

- A large number of States Parties did contribute to the general debate, in spite of short notice, and addressed a broad number of issues beyond the immediate agenda of the ASP, including issues of cooperation, implementation and relationship agreements (see section XIX below).

- Various States Parties invested time and resources in crucial side events, with the intention of building capacity, seeking dialogues and exchanging information. These side events introduced key ICC/ASP issues to the ASP forum (including implementation legislation, outreach, UN – ICC relationship, etc) that had previously been addressed only in the format of NGO meetings and added enormous value to the ASP schedule.

- The “Omnibus resolution” was strengthened by the inclusion of a number of essential paragraphs addressing the broader responsibility of the ASP (regarding universal ratification, implementation legislation, oversight mechanisms, etc).

- On a number of issues, but in particular with respect to the Trust Fund for Victims, the delegates demonstrated a real and impressive commitment to reach a final product at this very session to prevent any further delays for the Court (and the TFV) through unnecessary postponement of key decisions.

The overall positive atmosphere and commitment of ASP delegates reflected in the paragraphs above, was however tainted by problems with an overwhelming agenda (even for the larger delegations), a rather non-transparent decision making process on the 2006 budget, and an absence of 17 States Parties at the meeting. These are challenges that, to a certain extent, are addressed in the CICC report, and to which we are convinced that the ASP will seek to find future solutions. For the full report please visit the CICC website at: <http://www.iccnw.org/documents/asp/aspdocs/2005>

To access the official documents for the ASP please visit : <http://www.iccnw.org/documents/asp/asp4.htm>

ICC FOCUS

THE PRELIMINARY CHAMBER I OF THE ICC AUTHORISES THE PARTICIPATION OF SIX CONGOLESE VICTIMS TO ITS PROCEEDINGS FROM THE STAGE OF INVESTIGATION

An historical decision has been taken on the 17 January 2006 by the Pre-Trial Chamber I of the ICC that grants the status of victims to 6 applicants from the Democratic Republic of Congo, allowing them to participate in the proceedings from the phase of investigations.

Rejecting the arguments of the Prosecutor and Defence, the Pre-Trial Chamber estimates that article 68.3 of the Rome Statute (that relates to the rights of victims) can be applied from the time of investigations, even before arrest warrants. It defines the conditions for the exercise of art. 68.3, in conformity both with the evolution of international law, and the quality of victims described under article 85 of the Rule of Procedures and Evidence.

Therefore, the Chamber authorises participating victims to 1) present their views and occupations 2) bring in evidence 3) asking the Pre-Trial Chamber to order specific measures.

A motion by the Prosecutor to appeal to the decision of Pre-Trial Chamber I followed this decision. The prosecutor is arguing that this is too broad and would be dangerous to the rights of the accused and the fairness of proceedings. The motion is for leave to appeal, so a decision on whether leave to appeal is granted is to awaited now.

The application can be found here: http://www.icc-cpi.int/library/cases/ICC-01-04-103_English.pdf

Karine Bonneau, FIDH at kbonneau@fidh.org

COMMUNICATIONS FROM THE OFFICE OF THE PROSECUTOR

On 10 February 2006, the Prosecutor of the International Criminal Court made public an update on communications received by the Office of the Prosecutor (OTP) of the International Criminal Court. The update provided that the office has received 1732 communications from 103 countries including reports on alleged crimes in 139 countries in all regions of the world.

The update explains how the Prosecutor reacts to, and analyses, the communications received: initial review to determine possible basis for further action (80% of communications were dismissed at this stage, due to being found manifestly outside jurisdiction or ill-founded); further analysis involves a simple factual and legal analysis drawing on communications, referrals and public information (of 23 situations at this stage, 10 proceeded to intensive analysis, 6 were dismissed and 7 remain in this stage); thorough and intensive analysis (i.e. the phase the OTP refers to when publicly referring to "situations under analysis") may involves collection of detailed information, systematic crime analysis (gravity, complementarity and interest of jus-

stice) and planning for potential investigation (of 10 situations, 5 currently remain in this phase while 3 have reached investigation). Confidentiality is maintained in this entire first phase, with a few exception where the OTP has acknowledged the fact that the situation is under analysis.

The update explains that the OTP normally informs only senders about the decision not to initiate an investigation. Where intensive analysis has taken place, the Office may, in exceptional circumstances decide to make public its reasons where certain requirements regarding already existing publicity, as well as security and privacy of senders, are met; as demonstrated about the information on the two situations of Iraq and Venezuela. Further, the update provides some information about Cote D'Ivoire ("appears to involve over a thousand potential victims of willful killing within the jurisdiction of the Court" and the Central African Republic ("involves lower figures of willful killing but high levels of sexual violence").

The update also provides information about the three opened investigations (Northern

For more information on ICC latest developments please visit the ICC website at: <http://www.icc-cpi.int/>

CICC's policy on the referral and prosecution of situations before the ICC:

The Coalition for the ICC is not an organ of the Court. The CICC is an independent NGO movement dedicated to the establishment of the International Criminal Court as a fair, effective, and independent international organization. The Coalition will continue to provide the most up-to-date information about the ICC and to help coordinate global action to effectively implement the Rome Statute of the ICC. The Coalition will also endeavor to respond to basic queries and to raise awareness about the ICC's trigger mechanisms and procedures, as they develop. The Coalition as a whole, and its secretariat, do not endorse or promote specific investigations or prosecutions or take a position on situations before the ICC. However, individual CICC members may endorse referrals, provide legal and other support on investigations, or develop partnerships with local and other organizations in the course of their efforts.

Uganda, DRC and Darfur in the Sudan), into large-scale killings, sexual violence, abductions and displacement of people being performed by small teams with a sequential approach. It also provides information about the OTP's policy behind selection of cases, based on "greatest responsibility for the gravest crimes. The update states that the Prosecutor remains ready to use his proprio motu powers and that the Office will refine its regulations and policy paper on analysis and make it public.

See website of the ICC:

http://www.icc-cpi.int/library/organs/otp/OTP_Update_on_Communications_10_February_2006.pdf

On 9 February 2006, two letters was produced (and made public) to senders of communications regarding the situations in Iraq and Venezuela respectively, informing them that the Prosecutor has concluded not to ini-

tiate an investigation in these respective situations (but that this can be reconsidered in light of new facts or evidence) and that he has not received any referrals from states in this regard.

See the website of the ICC (on Iraq):

http://www.icc-cpi.int/library/organs/otp/OTP_letter_to_senders_re_Iraq_9_February_2006.pdf

See the website of the ICC (on Venezuela):

http://www.icc-cpi.int/library/organs/otp/OTP_letter_to_senders_re_Venezuela_9_February_2006.pdf

Cecilia Nilsson Kleffner, CICC

ICC-NGOs MEETING

On January 17th- 20th, 2006, NGOs attended the fifth round of strategic meetings with, respectively, the Office of the Prosecutor and the Registry of the International Criminal Court. Those meetings, taking place twice a year since the Court became a functioning institution, offer a precious opportunity of dialogue between the ICC and those NGOs that are closely following and monitoring developments at the Court since its inception.

During the entire week, NGOs and ICC representatives reviewed and evaluated recent and current operations of both organs and exchanged views about key strategic questions that the Court is facing, while exploring and identifying any possible common ground for cooperation.

With the OTP, NGOs discussed the status of judicial activities and related challenges, such as cooperation issues. The meeting was also the occasion to assess the interaction between the OTP and NGOs during the past year and to suggest improvements for the future. Finally, the last session with the OTP was devoted to some preliminary thinking to the Strategic Plan and the Court Capacity Model, as well as to other policy issues.

The Registry-NGOs strategic meeting first scrutinized the outcome of the last ASP and was then divided in two big sessions: the first one was devoted to issues related to the work of the Registry at headquarters and the second one to its field operations.

Moreover, for the first time ever, the Registry organised a half-day meeting on implementing legislation, where representatives of NGOs, the ICC and the ICRC presented their work and plans on implementation and identified the way forward for strengthened coordination and collaboration among them.

NGOs welcome the renewed opportunities to strengthen dialogue and cooperation with the Court, within the limits of respective mandates and competences and look forward to continue this focused consultation.

Luisa Mascia, CICC

NGOs ACTIONS!

THE FRENCH COALITION FOR THE ICC CONCERNED ABOUT LACK OF IMPLEMENTING LEGISLATION IN FRANCE

NGOs are invited to send articles as well as reports on their plans and activities to be included in the next issues of the European newsletter. For more information please contact Maria Cavarretta at cavarretta@iccnow.org

The French Coalition for the ICC is undertaking a campaign to urge their government to fully adopt an effective implementing legislation as promptly as possible. France has been a supporter of the Court since its creation, but the delay to comply with its obligations to fully implement the provisions under the Rome Statute is starting to be very worrying.

A letter drafted by the French coalition sent to President Chirac underlines the main concerns of civil society with regard to the delay that France is experiencing in harmonising its legislation with the Rome Statute. Almost six years after the ratification by France of the ICC Statute, the current national criminal legislation does not yet allow domestic tribunals to prosecute and try perpetrators of the most egregious crimes falling under the jurisdiction of the ICC. Furthermore, the current definitions of crimes against humanity and genocide are very narrow and inconsistent with the Court Statute, while war crimes do not exist as such in French law. This provides for a situation of absolute impunity for war criminals, also because France has made a reservation under Article 124, declaring that it does not accept the jurisdiction of the Court with respect to war crimes when a crime is alleged to have been committed by its nationals or on its territory, for a period of seven years from the date of entry into force of the Rome Statute. Civil society argues that it would be untenable that war criminals be shielded from justice in France because of a statute of limitation barring their prosecution, whereas their crimes would be extremely serious, therefore they argue that there must not be any statute of limitations for war crimes, as it is provided for crimes against humanity and genocide. In this regard, the French government has the responsibility to pass a law introducing definitions of crimes similar to the ones in the Statute, as well as recognizing the non applicability of statute of limitations.

Moreover, the French coalition puts forward France's reluctance to take measures to ensure victims' rights into its domestic law, stat-

ing in their letter that this is "incomprehensible regarding its deep involvement on the international level in the recognition of the same victims' rights before the ICC. It is of paramount importance that your country keeps the principle of "constitution de partie civile".

Similarly, the opposition of the administration to the mechanism of universal jurisdiction for the ICC crimes seem to be in full contradiction with France's fight against impunity, as this creates a safe haven for the worst criminals.

President Chirac is being urged by civil society organisations to promptly pass an implementing law in accordance with the ICC Statute, that could also be very beneficial to other francophone countries undertaking legislative measures to comply with their obligations under the Statute. This will ensure an end to impunity for the perpetrators of crimes of genocide, crimes against humanity and war crimes in France, and France could reiterate its support to international justice.

For more information on this campaign please contact the coordinator of the French Coalition **Christine Laroque** at cfcpi@amnesty.asso.fr.

The French coalition for the ICC has carried out extensive work in support of the ratification and the implementation of the Rome Statute in France since 1999. The national coalition gathers 42 NGOs, associations, trade unions, etc.

NGOs are invited to send articles as well as reports on their plans and activities to be included in the next issues of the European newsletter. For more information please contact Maria Cavarretta at cavarretta@iccnow.org

REGIONAL TRAINING ON THE ICC BELGRADE 15-16 DECEMBER 2006

The Swedish Helsinki Committee for Human Rights together with the Coalition for the International Criminal Court (CICC) organised on the 15-16 December 2005 a regional training on the International Criminal Court, targeting mainly NGOs. The seminar counted around 30 participants from different countries of the region including Serbia and Montenegro, Macedonia, Bosnia and Herzegovina, Kosovo, Albania and Croatia. Six participants from Moldova and one from Belarus also attended the seminar.

The seminar was meant to be a basic training on the ICC for organisations working in the field of Human Rights and International Justice in the Western Balkan region. Currently, most of the NGOs working in these fields, in particular in Bosnia and Herzegovina and Serbia and Montenegro mainly follow the work of the ICTY, now that the International Tribunal is transferring more and more cases to local courts. Yet, all participating NGOs stated their support for the ICC and the important role that it can play in the new international justice system. Often due to lack of substantial knowledge on the ICC and lack of resources, local organisations fail to take effective and pro active actions in this field.

In addition, the seminar also aimed at allowing NGOs from different countries in the region to gather together to discuss what each organisation is doing toward the promotion of the international justice, and also discuss the idea of joining forces together by creating a regional coalition on the ICC. The informal network that was eventually created with the approval of all participants, would allow the different organisations to share experiences, information and best practices for the promotion of the fight against impunity through the ICC.

The first day of the seminar opened with a presentation by Coalition for International Justice which focused on the role of NGOs in building justice after armed conflict. The presentation underlined, in particular, the important role that NGOs are playing and will need to play in the future towards raising awareness about international tribunals and the ICC while supporting outreach activities

in countries where investigations are taking place.

A comprehensive presentation on the main features of the International Criminal Court in the international justice system was made by the CICC. The presentation highlighted the ICC main features as well as the challenges that the ICC and its supporters are facing now that the Court is fully operational and that investigations have started in Uganda, DRC and Sudan.

Judge Ranko Marijan from the Supreme Court of the Republic of Croatia was invited to give a presentation on genocide, crimes against humanity and command responsibility. Croatia, is the only Western Balkan country to have implemented both substantive and cooperation provisions in line with the requirements under the Rome Statute. Therefore Judge Ranko Marijan, during its presentation also underlined some necessary steps that countries wishing to full harmonise their national legislation with the Rome Statute will need to take.

The representative of the Macedonia Helsinki Committee for Human Rights introduced the issue of constitutional obstacles and possible ways to tackle them.

The International Federation for Human Rights (FIDH) presentation focused on the rights of victims enshrined in the Rome Statute, particularly important now that investigations have started and two trials should begin in 2006. Victims need to be aware of their rights to participate in the proceedings while receiving due protection.

The day concluded with a presentation by Professor Vesna Knezevic Predic from the Faculty of Political Science that introduced the issue of cooperation with the ICC. Professor Predic brought up an issue already put forward by the Macedonian Helsinki Committee for Human Rights, regarding the translation of the Rome Statute in local languages. It is quite worrying that the translation of the Rome Statute both in Serbia and Montenegro and in Macedonia is not loyal to the original text and could possibly lead to serious misinterpretation.

The address for the Balkan coalition for the ICC is: **Balkan-Coalition-for-ICC@googlegroups.com**

For more information, please contact Goran Miletic at:

The second day of the seminar focused on the work that NGOs around the world are carrying out to promote ICC ratification, implementation and awareness raising, providing the participants with specific examples of actions that could be taken up by them in the region and in their own country.

The last session was dedicated to discuss the creation of a Balkan Coalition for the ICC and moderated by Andrej Nosov from the Youth Initiative for Human Rights. All the organisations invited agreed that the two days had been useful in learning more about the ICC, and valued to meet with other organisations. Participants agreed that an informal Coalition on the ICC would be established and that a listserv would be created to start sharing information. Also, it was agreed that beside specific activities, the coalition would try to meet once a year.

A visit to the Special department for prosecution of perpetrators of war crimes was also organised for the participants that had the

chance to meet with Judge Tatjana Vukovic.

The ICC is not a priority for organisations in the Balkans at the moment, although they very much support it in principle and would be happy to be provided with more substantial information that would enable them to carry out some further actions with regard to implementing legislation. Developments with regard to implementation are taking place, at the moment in several countries of the region. Ongoing reform of the judiciary and criminal legislation are currently taking place in the Western Balkans. Serbia and Montenegro and Macedonia have just adopted new Criminal Codes and Criminal Procedural Codes, although no provisions on cooperation with the ICC have been introduced in national legislation as yet.

This is a good moment for NGOs to take the lead in pushing their own Governments to adopt full implementing legislation and ensure the effective functioning of the ICC.

REGIONAL COALITION FOR THE ICC ORGANISES ROUND TABLE ON THE ICC IN BAKU, AZERBAIJAN

The Georgian Coalition for International Criminal Court was created in 2003 at the time of the ratification of the Rome Statute by Georgia, with the aim of promoting the ICC in Georgia and beyond. In particular, following full implementation of the Rome Statute into Georgian national legislation, the Georgian Coalition decided to undertake ICC activities in the neighbouring countries, namely Armenia and Azerbaijan, in cooperation and consultation with local non-governmental organisations.

In this context, the International Centre on Conflict and Negotiation (ICCN) - one of the founders of Georgian coalition for ICC - is coordinating a project titled "Creating Regional Coalition for the Support of the ICC", with the support of the CICC. In the framework of this project, the ICCN visited Baku, Azerbaijan, to present the project to Azeri NGOs and relevant state authorities, to initiate discussions on ICC at the regional level and organised a roundtable in Tbilisi.

At the beginning of April the South Caucasus Coalition is planning to organize an International Conference in Baku, Azerbaijan,

on the International Criminal Court. "The International Criminal Court: the South Caucasus Perspective", will also respond to a request from the Ministry of Justice of Azerbaijan that showed interest in the organisation of this event. The conference will mainly focus on: the perspectives of Rome Statute ratification and implementation in Azerbaijan; better define a Regional Strategy for the ICC; discuss the role of civil society actors in the ratification campaign in Azerbaijan, taking the example of the Georgian case; tackling constitutional obstacles such extradition issues, etc. Participants of the conference include: lawyers, experts on ICC, representatives of relevant state structures, civil society members, CICC representatives, and possibly representatives of the ICRC and the EU. This event will take place in the framework of the CICC Universal Ratification Campaign that will target Azerbaijan for the month of April.

Shorena Lortkipanidze, ICCN

The Coalition, an independent NGO movement, is dedicated to the establishment of the International Criminal Court as a fair, effective, and independent international organization. The Coalition will continue to provide the most up-to-date information about the ICC and to help coordinate global action to effectively implement the Rome Statute of the ICC. The Coalition will also endeavour to respond to basic queries and to raise awareness about the ICC's trigger mechanisms and procedures, as they develop. The Coalition as a whole, and its secretariat, do not endorse or promote specific investigations or prosecutions or take a position on situations before the ICC. However, individual CICC members may endorse referrals, provide legal and other support on investigations, or develop partnerships with local and other organizations in the course of their efforts.

Communications to the ICC can be sent to:

ICC
 P.O. Box 19519
 2500 CM The Hague
 The Netherlands

COUNTRIES NEWS

UKRAINE WILL SOON AMEND ITS CONSTITUTION TO ALLOW FOR THE RATIFICATION OF THE ROME STATUTE

Official reports state that Ukraine is currently addressing its constitutional incompatibility with the Rome Statute, as identified by the ruling of the Constitutional Court. In this regard, a constitutional amendment is being prepared and a draft should be presented to the Parliament following parliamentary elections in March. If this amendment is passed by the Parliament, one of the major obstacles to Ukraine's ratification will have been removed. The government will then have to present the ratification bill to the Parliament, which must pass it by a 2/3 majority, and draft legislation to effectively implement the Rome Statute into Ukraine's domestic legal order.

UN FOCUS

UN SECURITY COUNCIL DISCUSSED 'PEACE, SECURITY AND DEVELOPMENT IN THE GREAT LAKES REGION'

During its 5359th meeting on 27 January 2006, the UN Security Council discussed "Peace, Security and Development in the Great Lakes Region." Several states referred to the International Criminal Court (ICC), the need for putting an end to impunity, holding those responsible for egregious human rights violations accountable, and for international cooperation. Of the States representatives making statements, nine states made specific reference to and expressed support for the ICC: Argentina, Austria on behalf of the European Union, Canada, Denmark, Greece, the Netherlands, Norway, Slovakia, and Uganda.

In particular, the Minister for Foreign Affairs of Uganda, Sam Kutesa, stated: "We are convinced that the leadership of the LRA will never cross back into Uganda without being captured and handed over to the International Criminal Court (ICC). [...] The ICC has documented evidence and has indicted the top five LRA leaders for crimes committed against humanity in the Great Lakes region. [...] Fifthly, it should urge the Sudan and the Democratic Republic of the Congo to intensify military pressure to disarm the LRA as a negative foreign force operating from their territories and to cooperate fully with the ICC by implementing the arrest warrants issued by the Court on LRA terrorist leaders and to hand them over to the ICC. Sixthly, under Chapter VII of the Charter, the Council should mandate MONUC and the United Nations Advance Mission in the Sudan (UNAMIS) to assist the Democratic Republic

of the Congo and the Sudan to disarm the LRA elements operating in the southern Sudan and in Garamba National Park and in executing the ICC arrest warrants for the LRA leadership."

Austria on behalf of the European Union made the following statement:

"For lasting progress to be achieved, international partners need reliable, democratic partner Governments. It is important that political systems be democratic and inclusive and that they create a climate of trust and participation by all. Good governance and the rule of law will create an environment that is conducive to reconstruction. It is, therefore, essential to take decisive action against corruption, ensure respect for human rights, strengthen the rule of law and fight against the climate of impunity. The International Criminal Tribunal for Rwanda and the International Criminal Court have a central role to play in the efforts to bring to justice those responsible for serious human rights violations, war crimes or crimes against humanity."

Please find below all excerpts from this debate, highlighting references made to the ICC during such statements. The excerpts below have been compiled by the Coalition for the International Criminal Court (thanks to our intern Lauren Ting). These excerpts are available on our website at <http://www.iccnw.org/documents/statements/governments.html>.



UPDATES ON RATIFICATION AND IMPLEMENTATION IN EUROPE

RATIFICATION AND IMPLEMENTATION IN EUROPE: UPDATES

We welcome updates on the ratification and implementation status of the Rome Statute in Europe. As far as possible, we try to indicate the sources of the information, unless it comes from a confidential source. The lack of information on some countries by no way implies that there have been no developments in those specific countries. To send updated information on the status of ratification and implementation in Europe and Central Asia, please contact Maria Cavarretta

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*Please NOTE: *will follow on country names that include updates since the last edition*

Albania

Signature 18 July 1998- Ratification 31 January 2003

The issues that raised constitutional problems were: the transferability of the judicial power' competences to international bodies; immunity from criminal prosecution provided by Albanian Law for several official capacities and the principle *ne bis in idem*. **Substantive Criminal Law:** The criminal code should be amended in 2005. In June 2004, the government declared that it would modify the definition of the crime of genocide, in conformity with the definition in the Rome Statute. **Cooperation:** A law on cooperation with ICC is necessary. Revised: December 2004.

Andorra

Signature 18 July 1998–Ratification 30 April 01

APIC: Signature 21 June 2004-Ratification 11 February 2005. Revised: August 2004.

Armenia

Signature 1 Oct. 1999.

In August 2004, the Armenian Constitutional Court delivered a negative opinion on the compatibility of the Rome Statute of the ICC with the national legislation. The reasons are: (a) the ICC is seen as supplementing the national judicial system of the RA (contradicting art 91 and 92 of the Constitution); (b) national authorities would be deprived of the right to grant pardon. **Substantive Criminal Law:** In August 2003 a new criminal code entered into force. The special part includes section 13 – “Crimes against peace and human security” –, which gives the definition of: 1. Genocide (art. 393); 2. Serious breaches of international humanitarian law during armed conflicts (art. 391); 3. Crimes against human security (art. 392). The general part regulates the statute of limitation: while not applying for most of the crimes included in section 13, it applies to “crimes against human security” under art. 392. You can find the English translation of the Armenian criminal code at: www.legislationline.org/data/Documents/Armenia_Criminal_Code_2003.htm Sources: IDHR and Arminfo News Agency. Revised: October 2004.

Austria*

Signature 7 Oct. 1998 – Ratification 28 December 2000

Cooperation: On 10 July 2002, the Austrian Parliament unanimously approved the Law on Cooperation with the ICC. It provides the legal basis for complying with requests of the ICC for the surrender of persons and for other forms of assistance. The law also enables Austria to accept convicted persons on its territory, for the purpose of enforcing prison sentences imposed by the Court. After parliamentary approval, the ratification bill was signed by the Federal President and entered into force on 1 October 2002 (Austrian Federal Law Gazette I Nr.135/2002).

Substantive Criminal Law: The Ministry of Justice is considering an amendment to the Austrian Penal Code, in order to include all crimes under the Rome Statute. However, no concrete steps have been taken so far and in particular the question of which articles need to be modified or introduced is still unresolved.

Enforcement of ICC sentences: Austria was the first State to sign an Agreement with the ICC on the Enforcement of Sentences on 27 October 2005. The Austrian Federal Minister of Justice, Ms. Karin Gastinger, and the President of the International Criminal Court, Mr. Philippe Kirsch, signed the first agreement between a State Party and the ICC on the



<http://www.iccnw.org/urc/chad.htm>

This month's target country for our ongoing Universal Ratification Campaign is Suriname. The Universal Ratification Campaign is a worldwide complementary effort devoted to urging members to redouble their efforts to promote universal acceptance of the International Criminal Court. Local actions are needed to promote awareness of the International Criminal Court; increase media coverage; urge governments to ratify or accede to the Rome Statute; adopt effective implementing legislation and ratify the ICC Agreement on Privileges and Immunities.

enforcement of the sentences to be handed down by the Court. The signing ceremony took place at the seat of the International Criminal Court in The Hague, The Netherlands. The agreement entered into force on 26. November 2005 and is published in the (Austrian Federal Law Gazette III Nr. 201/2005). **APIC:** Signature 10 September 2002-Ratification 17 December 2003. **Universal jurisdiction:** The Austrian Penal Code (Austrian Federal Law Gazette Nr. 60 /1974, as amended) provides for universal jurisdiction in its Section 64 para. 1 subparas. 4, 5, 6, 9 and 10 as well as in Section 65 para. 1 subpara. 2. The offences subject to universal jurisdiction include, but are not limited to, acts of slavery, trafficking in human beings, counterfeiting, piracy and terrorism. However, the question whether universal jurisdiction will be applicable to crimes covered by the Rome Statute, will have to be decided during the process of implementing the crimes under the Rome Statute into the Austrian Penal Code. **Victims:** The execution of reparation orders of the ICC is spelled out in Section 42 of the Austrian Law on Cooperation with the ICC. Under this provision reparations can be executed in Austria, if they are requested by the ICC and are based on a decision or an order of the latter. Furthermore, claims must be enforceable in Austria, i.e. objects and assets must be believed to be located and punitive damages must be believed to be enforceable in Austria. For the time being, there are no specific rules granting reparation to victims of crimes covered by the Rome Statute. The granting of reparation to such victims follows the general rules applicable to victims of ordinary crimes. Victims of ordinary crimes can generally sue for damages in civil law suits. Moreover, victims of serious crimes (premeditated crimes with sentences of more than six months of imprisonment) who have suffered physical or mental injuries that have resulted in medical expenses or a reduced capacity to work may apply for financial assistance through a government program run by the Austrian social services office (Bundessozialamt). This however, only applies to EU and EEA citizens. Revised: February 2006

Azerbaijan*

A conference on the "Repression of War Crimes at National and International Levels" was held in Baku on March 17, 2004. The event was co-organized by the ICRC and the Parliament of Azerbaijan. Participants were offered the opportunity to hold in-depth discussions on specific issues relating to the repression of war crimes in the legislation of Azerbaijan, as well as of other CIS countries. The event also focused on the issue of war crimes in the jurisdiction and practice of international judicial bodies, namely the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Court (ICC). Participants included Azerbaijani state officials, representatives of the German Ministry of Justice, as well as of the ICRC office in Baku. Mr. Nizami Safarov (head of the Administrative and Military Legislation Department) stressed the importance of such event, in order to raise national awareness on international justice mechanisms for combating impunity for the most serious international crimes. At the EU- Azerbaijan Parliamentary Cooperation Committee (PCC), held in Baku on 28-29 April 2003, the PCC underlined the importance of Azerbaijan signing and ratifying the Statute of the ICC.

Substantive Criminal Law: A new Criminal Code entered into force on the 1st of September 2000 and a Criminal Procedural Code has been adopted. The Criminal Code provides for criminal responsibility for crimes against humanity and war crimes reflecting the definitions of the Rome Statute. **Cooperation:** The Law on Extradition of Criminals of 15 May 2001 enables the surrender to the ICC. The process of ratification is impeded by constitutional obstacles e.g. particularly by immunity of State officials and possibility of granting pardon. Other issues may arise, e.g. those connected with the requirement to trial by jury in the Criminal Procedural Code. Source: "Progress Report by Azerbaijan", Council of Europe, Strasbourg, 11 July 2001 and Mr. Eldar Zeynalov from the Human Rights Center of Azerbaijan. **Latest news:** A conference on the ICC organised by the Regional South Caucasus coalition for the ICC will be organised in Baku in April 2006.

Revised: February 2006.

Belarus

Belarus has not signed the Rome Statute.

According to a delegate of the UN Mission, present at the IX PrepCom, Belarus was analysing its national legislation in order to bring it into compliance with the Rome Statute. However there is no recent news on the ratification process, since the ICC is not on the political agenda.

Belgium

Signature 10 September 1998-Ratification 28 June 2000

Cooperation: On the 29th March 2004, the Belgium Law on Cooperation with the International Criminal Court and International Criminal Tribunals was approved. It was published on the 1st of April and is available at: www.moniteur.be. **Complementarity:** Under the new Bill, adopted on 5 August 2003, Belgian courts will have jurisdiction over international crimes if the accused is Belgian or has his primary residence in Belgium; if the victim is Belgian or has lived in Belgium for at least three years at the time the crimes were committed; or if Belgium is required by treaty to exercise jurisdiction over the case. Under Art 12 bis of the preliminary Chapter of the Criminal Procedural Code, Belgian courts remain competent for all International Humanitarian Law cases if the accused is found in Belgian territory, even with no other nexus with Belgium, unless the person is subject to an international immunity (according to the ICJ). The new law also considerably reduces victims' ability to obtain direct access to the courts, unless the accused is Belgian or has his primary residence in Belgium,

the decision whether or not to proceed with any complaint rests entirely with the Federal Prosecutor. The Bill, called "Loi relative aux violations graves du droit international humanitaire", can be found at: [www.coe.int/T/E/LegalAffairs/LegalCooperation/TransnationalCriminalJustice/InternationalCriminalCourt/Documents/ConsultICC\(2003\)11F.pdf](http://www.coe.int/T/E/LegalAffairs/LegalCooperation/TransnationalCriminalJustice/InternationalCriminalCourt/Documents/ConsultICC(2003)11F.pdf)

APIC: Signature: 11 September 2002. Ratification: 28 March 2005. Revised: March 2005

Bosnia and Herzegovina

Signature 17 July 2000- Ratification 11 April 2002

Substantive Criminal Law: A law on witnesses has been amended. A working group has prepared amendments to the Criminal Code. The Office of the High Representative (OHR) of Bosnia and Herzegovina enacted a Criminal Code and a Criminal Procedural Code on the 24th January 2003. Both entered into force on the 1st of March 2003. These codes are part of the overall reform of the judiciary in Bosnia and Herzegovina that comprises a new State Ministry of Justice, a State Court with a special war crimes department and a State Prosecutor with competence for war crimes, genocide and crimes against humanity. The definitions of these crimes in the new Criminal Code are set in Chapter XVII on "Crimes against Humanity and Values Protected by International Law"- arts 171-203. For a copy of the Criminal Code and the Criminal Procedural Code, in English, contact: cavarretta@iccnow.org. Revised: September 2005.

Bulgaria

Signature 11 February 1999-Ratification 11 April 2002

A new Criminal Procedural Code to regulate Cooperation with ICC and a Criminal Code are expected in 2005-2006. An analysis provided by Transparency International-Bulgaria on the status of the Bulgarian legislation, offers the following conclusions:

Complementarity: Regarding definitions of crimes, crimes against peace and humanity are defined in Chapter XIV of the Bulgarian Criminal Code. There is full compliance between the definition of the crime of genocide under Article 416 of the Criminal Code and under Article 6 of the Rome Statute. The Bulgarian Criminal Code does not define crimes against humanity as such. Only the crime of apartheid, one of the acts listed in Article 7 of the Rome Statute, is defined in Article 417 and Article 418 of the Bulgarian Criminal Code. The latter provision includes acts that are not covered by the definition of apartheid under Article 7 of the Rome Statute. The definition of apartheid under the Statute is broader. Crimes against the laws and customs of conducting war are defined in Section Two of the Chapter XIV of the Bulgarian Criminal Code. The list of war crimes in the Rome Statute is longer than the list in the Bulgarian Criminal Code. The Code criminalises acts that constitute grave breaches of the Geneva Conventions of 12 August 1949. There is full compliance between Articles 410 to 412 of the Criminal Code and Article 8, para 2, "a" of the Rome Statute. **Cooperation:** There is no Law of Cooperation with the ICC. The Criminal Procedural Code was amended in 2003 (SG N 50/2003) in compliance with the Rome Statute. Section 2, article 439A, 439B, 440A, 440B, 440G of the CPC, regulates requests of international courts on extradition, legal assistance and appearance of witnesses before a foreign court. On 18th of February 2004 a law has been adopted on the surrender of citizens to an International Court when the obligations are provided by an international treaty to which Bulgaria is party. More info on: **APIC:** Signature 2 May 2003. Revised: October 2004.

Croatia

Signature 12 October 1998-Ratification 21 May 2001

Cooperation: A law on cooperation was approved by the Croatian Parliament on 17 October 2003, promulgated by the President of the Republic on 24 October 2003, entering into force on 12 November 2003. **Complementarity:** A new criminal code was approved in spring 2004, with dispositions on command responsibility, definitions of crimes as in the Rome Statute, etc. **APIC:** Signature: 23 September 2003-Ratification: 17 December 2004. Revised: January 2004.

Cyprus

Signature 15 October 1998-Ratification 7 March 2002

There were no major obstacles to ratification and no need to amend the Constitution.. **APIC:** Signature: 10 June 2005 - Ratification: 18 August 2005. Revised: August 2005.

The Czech Republic

Signature 13 April 1999 Ratification: Upon request of the Foreign Committee of the Parliament, an analytical material is being prepared by the MFA, in cooperation with the MJ, including information on: 1. Ways of ratification of the RS (constitutional amendments; special constitutional law; simple ratification by constitutional majority (3/5); 2. The legal consequences of the ratification of the RS for national law; 3. Implications of the RS ratification in international relations.

The MFA will submit the package to the attention of the Parliament in the upcoming month. **Cooperation:** The Ministry of Justice is preparing draft amendments to Czech Criminal Proceedings concerning cooperation with international criminal courts and ad hoc tribunals. **Substantive Criminal Law:** In 2004, a draft criminal code was approved by the Government and submitted to the Parliament, where it should be discussed after the summer recess. Revised: June 2004.

Denmark

Signature 25 September 1998-Ratification 21 June 2001

On 3 May 2001 the Danish Parliament ("Folketinget") adopted the Danish Act on The International Criminal Court, authorizing the ratification and including a poor set of provisions on implementation.

APIC: Signature: 13 September 2002 - Ratification: 3 June 2005. **Universal Jurisdiction:** Denmark can exercise universal jurisdiction over war crimes, torture, terrorism and other crimes. For more information please visit: www.sico.dk. **Enforcement of sentences:** Denmark is in dialogue with the ICC for an agreement. **Victims:** Victims compensation are dealt with under ordinary Danish legislation regarding compensation. Source: Ministry of Justice Denmark. Revised: November 2005.

Estonia

Signature 27 Dec. 1999-Ratification 30 Jan. 2002

On 5 December 2001, the Parliament of Estonia adopted the Rome Statute Ratification Act. Concurrently, amendments to the Code of Criminal Procedure were approved in order to implement the Statute and to ensure proper **co-operation** with the Court when the Rome Statute enters into force. Two Acts ("the Ratification Act" and "the ICC Procedure Act") contain minimal implementing provisions and were enacted in the end of 2001. **Substantive Criminal Law:** A new Penal Code entered into force in September 2002. It incorporates extensive definitions of genocide, war crimes and crimes against humanity under the section "Offences against Humanity and International Security". The Penal Code also provides for the non-applicability of statutory limitation to offences against humanity. For the English version of the penal code of Estonia, visit: www.legislationline.org/data/Documents/Estonia_CC.htm

APIC: Signature: 27 June 2003 - Ratification: 13 September 2004. Revised: October 2004

Finland

Signature 7 Oct.1998-Ratification 29 Dec. 2000

Cooperation: The Finnish Act n International Legal Assistance in Criminal Matters (NO. 4/1994-) forms the basis for co-operation between Finland and the ICC. However, "The Cooperation Act", no. 1284/2000 was enacted on 28 December 2000 that entered into force on the 1st July 2002, clarifies certain obligations of Finland based on Chapter 9 of the Statute. Also, for the purpose of full implementation of the provisions of the Statute, more extensive legal assistance is provided for in Act No. 1284/2000 than would have been possible under existing domestic law. An unofficial translation of the Acts is available at [http://legal.coe.int/icc/docs/Consult_ICC\(2001\)/ConsultICC\(2001\)13E.pdf](http://legal.coe.int/icc/docs/Consult_ICC(2001)/ConsultICC(2001)13E.pdf). **Substantial Criminal Law:** The "Act on Amendment of the Penal Code ICC Crimes Act", no. 1285/2000, was enacted on 28 December 2000 to enter into force on the 1st July 2002. These Acts, a National Progress Report and translation of the Rome Statute in Finnish are available at: [http://legal.coe.int/icc/docs/Consult_ICC\(2001\)/ConsultICC\(2001\)13E.pdf](http://legal.coe.int/icc/docs/Consult_ICC(2001)/ConsultICC(2001)13E.pdf). The Ministry of Justice set up a working group on 19 October 2005 to draft a blueprint for a government proposal to amend the Sections of Chapter 11 of the Penal Code dealing with war crimes and crimes against humanity. The purpose is to include in the Penal Code express provisions on the crimes falling under the jurisdiction of the Court. Source: Ministry of Justice. **APIC:** Signature: 10 September 2002 - Ratification: 8 December 2004. **Universal jurisdiction:** The Finnish Penal Code (39/1889, amendments up to 15.7.2005/585) Chapter 1, Section 7 (as amended by law 9.7.2004/650) provides that Finnish law applies to an offence committed outside of Finland where the punishability of the act, regardless of the law of the place of commission, is based on an international agreement binding on Finland or on another statute or regulation internationally binding on Finland (international offence). **Enforcement of ICC sentences:** When ratifying the Rome Statute, Finland indicated to the Court its willingness to accept sentenced persons. The negotiations for an agreement on the enforcement of sentences are expected to commence soon. **Victims:** Reparation for personal injury is provided under the conditions enumerated in the Act on Compensation for Criminal Damage (935/1973, amendments up to 21.12.2004/1197). An unofficial translation of the Act is available at <http://www.finlex.fi/fi/laki/kaannokset/1973/en19730935.pdf>. Revised: November 2005.

France

Signature 18 July 1998 -Ratification 9 June 2000

Cooperation: The French Parliament adopted on February 19th 2002, the Bill on Cooperation with the ICC (Law n. 2002-268). This Law, an initiative of Senator Badinter, addresses only procedural issues: it allows France to cooperate with the

ICC in matters concerning arrest, transfer, execution of prison sentences and reparation orders. The text can be found at: www.legifrance.gouv.fr/WAspad/UnTexteDEJor?numjo=JUSXo205311L. **Substantive criminal law:** the Ministry of Justice, prepared a draft law on substantive adaptation of the Rome Statute. The draft introduces in the French legislation the definition of war crimes and extends the definition of crimes against humanity; moreover, the crime of “apartheid” should be introduced under the notion of “segregation of an ethnic group”; the crimes of forced pregnancy and sterilisation will also be included. The draft was submitted by the Ministry of Justice to the members of the Commission Nationale Consultative des droits de l’homme (CNCDH), which released its opinion on 15 May 2003. The following shortcomings were identified:

1) Art. 27 of the Rome Statute - on the irrelevance of official capacities - still needs to be incorporated into French national legislation; 2) War crimes are not subject to the same legal regime as genocide and crimes against humanity, being therefore subject to status of limitations; 3) The principle of victim's equal access to justice is not fully retained, whereby the Public Prosecutor would be the only person entitled to initiate a proceeding when the crime is committed abroad; and 4) The scope of universal jurisdiction has been limited with regard to non-States Parties. The draft was expected to be debated within the Ministries of Foreign Affairs and Defence by the summer of 2003, and should be submitted to the Parliament for scrutiny at fall of this year. France is the only European country that decided to exclude prosecution of French citizens for war crimes from the jurisdiction of the Court for seven years, by making a reservation under article 124 of the RS. Despite those developments, an intense interministerial debate - especially on the issue of statute of limitations for war crimes and extraterritorial jurisdiction - is slowing down the approval procedure. Source: Jeanne Sulzer, FIDH, jsulzer@fidh.org. **APIC:** Signature: 10 September 2003. Ratification: 17 February 2004. The ratification bill can be found at: www.senat.fr/dossierleg/pjl02-438.html. Revised: April 2004.

Germany

Signature 10 Dec. 1998–Ratification 11 Dec.2000

Substantive Criminal Law: The Act to introduce a Code of Crimes against International Law (CCAIL) (consolidating and completing the catalogue of criminal offences under German domestic law, paralleling the offences under the Rome Statute) and the Act on implementing legislation (The Code on Execution of the Rome Statute or the “**Cooperation Code**” that regulates the details of co operation between German courts and authorities and the ICC) are both in force since the 1st July 2002. Now, German public prosecutors are allowed to investigate war crimes, genocide and crimes against humanity, regardless of whom, where, when or against whom these crimes were committed. The German law can be found in German, French, English, Spanish, Russian and Arabic at: www.iuscrim.mpg.de/forsch/online_pub.html#legaltex. Still two amendments are foreseen, in order to concentrate the first-instance jurisdiction for crimes against international law at the Higher Regional Courts (Oberlandsgericht) and to confer the competence of prosecution of those crimes to the federal attorney general. The provisions concerned are art. 96 of the German constitution and those of the Courts Constitution Act. Source: International Campaign Against Impunity. **APIC:** Signature: 14 July 2003 - Ratification: 2 September 2004. Revised: July 2003.

Georgia

Signature 18 July 1998-Ratification: 5 Sept.2003

On 5 September 2003, Georgia deposited the instrument of ratification at the UN Headquarters becoming the 92 State to ratify the Rome Statute. On July 16, on the instruction of the President, the Georgian Parliament had ratified by unanimity the Rome Statute.

A Working Group (activated by the Ministry of Justice) finished a draft legislative package for ratification and implementation in early April, which was first adopted by the inter-ministerial commission, then submitted to the Parliament. On 14 August 2003, the Assembly passed a legislative package including: 1) bill on cooperation with the ICC; 2) Amendments to the Code of Criminal Procedure; 3) Amendments to the Criminal Code; 4) Amendments to the law on custody; 5) Amendments to the law on executive actions. Revised: September 2003. Revised: October 2004.

Greece

Signature 18 July 1998-Ratification: 15 May 2002

A bill to implement the ICC Statute in Greece has been drawn up and is in the process of submission to Parliament.

APIC: Signature on 25 September 2003. A draw law to ratify the APIC is under preparation.

Universal Jurisdiction: Universal Jurisdiction of the Greek Penal Courts is provided for by Article 8 of the Penal Code in the case including for any other offence on which Greek criminal legislation is applicable by virtue of special provisions or international conventions signed and ratified by Greece.

Revised: November 2005.

Holy See

H.H. Pope John Paul II included in his “Message for the World Day of Peace” from January 1, 2000 a statement in support

of the ICC, that reads as follows: "... an offence against human rights is an offence against the conscience of humanity as such, an offence against humanity itself. The duty of protecting these rights therefore extends beyond the geographical and political borders within which they are violated. Crimes against humanity cannot be considered an internal affair of a nation. Here an important step forward was taken with the establishment of an International Criminal Court to try such crimes, regardless of the place or circumstances in which they are committed. We must thank God that in the conscience of peoples and nations there is a growing conviction that human rights have no borders, because they are universal and indivisible." His full remarks are located at: www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_08121999_xxxiii-world-day-for-peace_en.html.

In 2002 the Holy See contributed to the Trust Fund to support the participation of Least Developed Countries in the ICC Preparatory Commission. A strong call by the Pope to the USA Catholic Church to support the ICC would be welcome. Revised: December 2003.

Hungary

Signature 15 Jan. 1999-Ratification 30 Nov. 2001

The Ministry of Justice has put forward a bill, which would modify amongst others Art. 32 of the Constitution by adding an additional paragraph 4 saying that "the immunity of the President of the Republic does not exclude his responsibility for crimes under the jurisdiction of, and before a permanent international court established by an international treaty." According to a news report, this bill passed the Parliament's Defense Committee for a first reading on the 8th of September 2003. Source: Hungarian News Agency and Conference "ICC-Implementation in Central and Eastern Europe", Bucharest, 9-11 May 2003. **APIC:** Signature on the 10 September 2002. Revised: November 2005.

Iceland

Signature 26 August 1998-Ratification 25 May 2000

In autumn 2002, implementing legislation was approved by Parliament. **APIC:** Signature: 10 September 2002. Ratification: 1st of December 2003. Revised: December 2003.

Ireland

Signature 7 Oct. 1998- Ratification 11 April 2002

On 11 August 2004, the Minister of Justice published a comprehensive piece of legislation, dealing both with **substantive criminal law** and **cooperation** with the Court. The bill introduces into the Irish legislation the definition of crimes against humanity, war crimes, ancillary crimes and crimes against the administration of justice (Part 2), whereas the crime of genocide was already incorporated as part of the implementation of the Geneva conventions. The bill also regulates requests for arrest and surrender by the ICC, as well as the enforcement of ICC rulings (Part 3). Part 4 of the law prescribes the compliance with the request to freeze (and confiscate) assets of the accused. Part 5 deals with other forms of assistance to the ICC, implementing art. 93(1) of the RS. Universal Jurisdiction and victims are also partly addressed by the Bill. The Bill is before the Lower Parliamentary Chamber and is listed for consideration during the current Parliamentary session. **APIC:** Signature on 9 September 2003. Revised: November 2005.

Italy

Signature 18 July 1998 – Ratification 26 July 1999

In May 2002, M. Giovanni Kessler (from the main Italian leftwing party) and other members of the Italian Parliament submitted to the Parliament's Chamber the proposal of law n. 2724, on "Rules for the implementation of the internal system to the Statute of the International Criminal Court". This proposal contemplated both substantial adaptation to the Rome Statute and law on cooperation with the ICC, therefore creating a whole "international criminal code". The almost identical proposal n. 1638 was further introduced in July 2002 before the Senate by a number of senators from several opposition Parties. For the Italian text, please visit the webpage: <http://www.camera.it/dati/leg14/lavori/stampati/sk3000/articolo/2724.htm>. Recently, two identical drafts of implementation legislation were introduced before the Chamber (n. 6050) and the Senate (n. 3574) by MPs of different majority's Parties. Both the new proposals have the same structure of the previous ones, with which they share a large number of provisions of a general character as well as of substantive criminal law. Provisions on cooperation, however, reflect the work finalised in 2003 by the last Commission in charge at the Ministry of Justice for drafting a Governmental proposal. However, none of the said four proposals has been yet scheduled has been yet scheduled for examination before the competent Parliamentary Commissions. recent progress in that regard. **APIC:** Signature: 10 September 2002. **Universal Jurisdiction:** Crimes of international concern committed abroad are punishable under Italian criminal law if included in international Conventions implemented by Italy (Article 7, Penal Code). In all other cases, crimes committed abroad are only punishable under certain conditions (gravity, presence on the territory, request of the Ministry of Justice). **Victims:** The reparation for victims of crimes under international law provided as a result of a separate civil action or through the criminal conviction.

Revised: November 2005.

Kazakhstan**Kazakhstan did not sign the Rome Statute.**

On May 22 2004, the BBC reported that Yevgeniy Zhovtis, director of the Kazakh office of the International Bureau for Human Rights and the Observance of Legality believed that Kazakhstan would soon sign the Rome Statute of the ICC. Zhovtis referred that "politically, joining the ICC will not affect Kazakhstan much, as there is no danger of being criticized in the future for non-observance of the statute's provisions. However, membership will allow the country to receive further approval in the international arena." Revised: June 2004.

Kyrgyzstan**Signature: 9 December 1998.**

In February 2004, deputy Azimbek Beknazarov and human rights activist Ramazan Dyrlydaev urged the Government to ratify the Rome Statute of the ICC. In reply to the appeal, the head of government Nikolai Tanaev stated that "Kyrgyzstan can not pay its membership fees to international organizations" and thus cannot ratify the ICC Statute. Officials from the Foreign Affairs Ministry share that opinion and asserted that the only obstacle towards ratification is of financial nature. Source: Ramazan Dyrlydaev, from the Kyrgyz Committee for Human Rights. Revised: February 2004.

Latvia**Signature 22 April 1999-Ratific: 28 June 2002**

APIC: Signature on 29 June 2004-Ratification: 23 Dec. 2004. Revised: December 2004.

Liechtenstein**Signature 18 July 1998 –Ratification 2 Oct. 2001**

APIC: Ratification: 21 September 2004.

Revised: October 2004

Lithuania**Signature: 10 Dec. 1998 - Ratification: 12 May 2003**

Substantive: The new Criminal Code (adopted on 26 September 2000) includes the crimes under the Rome Statute. Moreover, art 7 establishes universal jurisdiction for those crimes, irrespectively of the nationality and residence of the accused and of the place of committing the crime.

Cooperation: A new Code of Criminal Procedure (14 March 2002) provides for cooperation measures with the ICC (art 67; 71; 72; 73; 74; 76; 77). **APIC:** Signature: 25 May 2004.-Ratification: 30 Dec. 2004.

Universal Jurisdiction: The Criminal Code of the Republic of Lithuania provides for the following rules regarding the universal jurisdiction:

-Citizens of the Republic of Lithuania and other permanent residents of Lithuania shall be held liable for crimes committed abroad under the criminal statutes of the Republic of Lithuania (Article 5);

-Aliens who do not have a permanent residence in the Republic of Lithuania shall be liable for punishment under the criminal statutes of the Republic of Lithuania if they commit crimes abroad which are directed against the independence, territorial integrity or constitutional system of the State of Lithuania (Article 6);

-Persons who commit the following crimes, specified in international agreements, abroad shall be criminally liable under the criminal statutes of the Republic of Lithuania regardless of their citizenship, their place of residence, the place of commission of the crime, or the punish ability of the committed act under the laws of the place where the crime was committed: Crimes against humanity and war crimes; Human trafficking; Sale or purchase of a child; Counterfeiting of money or securities, or keeping in possession or transmitting the same; Money laundering; Act of terrorism; Hijacking of an aircraft; Taking of hostages; Unlawful handling of radioactive materials; Crimes related to narcotic or powerful drugs or controlled substances (Article 7). **Enforcement of ICC sentences:** According to Article 5 of the Code of Execution of Punishment, in cases, provided in the international agreements of the Republic of Lithuania the background for the execution of punishment can be an effective judgement of convictions of the court of a foreign state or international judicial institution. It should be mentioned that Lithuania has made the declaration regarding the application of Article 103 of the Rome Statute –

the Republic of Lithuania shall accept sentenced persons if they are the citizens of the Republic of Lithuania. **Victims:** This summer, on 30 June, the new Law of the Republic of Lithuania on the Compensation for Damages, Made by the Violent Crimes (hereinafter referred to as "the Law") was adopted and came into force on 14 July. The Law implements the Council Directive [2004/80/EC of 29 April 2004 relating to compensation to crime victims](#). The compensation for damages can be disbursed for the victims and close relatives for the violent crime that has features of grave, major and minor act, by which a person has been intentionally murdered, his/her health has been severely or easily violated, or it has been encroached on somebody's sexual self-determination and sexual inviolability.

Revised: November 2005.

Luxembourg***Signature 13 October 1998-Ratification 8 Sept. 2000**

Substantive and Cooperation: The national law implementing the Rome statute, including provisions with regard to complementarity and cooperation with the ICC, is currently being drafted. Source: Ministry of Justice. **APIC:** Signature: 10 September 2002. Ratified: 20 January 2006. **Universal jurisdiction:** The general rule remains the principle of territoriality. There are however more and more exceptions to this rule. Universal jurisdiction is applied for the crime of genocide (law of 8 August 1985). **Enforcement of ICC sentences:** Measures or an agreement allowing the enforcement of ICC sentences in national prisons (art. 103 RS) is not foreseen in Luxembourg for the moment, but could eventually be considered at a later stage. **Victims:** Our national legislation (law of 12 March 1984) provides for the reparation of victims of criminal offences. If such an offence was committed in a foreign country, reparation can be granted in Luxembourg under certain conditions, such as, for instance, that the victim is not entitled to reparation in the country where the offence was committed and that the victim has its legal and habitual residence in Luxembourg. Revised: February 2006.

Macedonia (FYR of)**Signature 7 October 1998–Ratification 6 March 2002**

Substantive Criminal Law: An amended Criminal Code entered into force in September 2004. The Criminal Code includes a definition of crimes against humanity in the same terms as in the RS as well as definitions of war crimes against civil population; war crimes against war captives; and a new Article 407-a) incriminating approval or justification of genocide, crimes against humanity and war crimes. The crime of aggression is to be included in the Criminal Code after adoption of an international definition, but it foresees only incrimination for encouraging aggressive war (article 415). **Cooperation:** Cooperation with the ICC is provided for the Constitution and the Criminal Procedural Code under Chapter XXX of the Law on Criminal Procedure (source: Macedonian Helsinki Committee). A single Act on cooperation should be adopted to include all provisions under the Rome Statute as also recommended by the Council of Europe report of October 2003. Source: Stojanka Mirceva, Macedonian Helsinki Committee. **APIC:** Ratified: 19 October 2005. Revised: November 2005.

Malta**Signature 17 July 1998-Ratification 29 November 2002**

In order to enable ratification and implement the Rome Statute in the Maltese juridical order, the Parliament approved the “International Criminal Court Act” in November 2002. The ICC Act covers **cooperation** and **substantive criminal law** through amendments to the Criminal Code that introduce the crimes in the Rome Statute; included are provisions on Malta receiving prisoners from the ICC; the arrest and detention warrants for arresting suspects on Maltese territory are also covered. Moreover, crimes against the administration of justice are now foreseen in the Maltese law. Source: Neil Falzon. The ICC Act is found at: http://docs.justice.gov.mt/lom/legislation/english/leg/vol_14/chapt453.pdf

See also the Criminal Code (Chapter 9) which contains provisions on Genocide, Crimes against Humanity and War Crimes at: http://docs.justice.gov.mt/lom/legislation/english/leg/vol_1/chapt9.pdf. **APIC:** Malta has not signed APIC the Attorney General’s Office is reviewing its ratification. **Universal Jurisdiction:** Part II, Title I of the Criminal Code (Chapter 9) relates to “Genocide, Crimes against Humanity and War Crimes”. Article 54A of the Criminal Code, which supplements Chapter 453, makes it a crime for a person to commit genocide, a crime against humanity or a war crime. Article 5 of the Criminal Code provides that a criminal action may be prosecuted in Malta against any citizen of Malta or permanent resident in Malta who in any place or on board any ship or vessel or on board any aircraft wherever it may be shall have become guilty of the offences mentioned in Article 54A. Moreover, Article 7(3) of Chap 453 provides that a criminal action may be prosecuted in Malta against any citizen of Malta or permanent resident in Malta who shall have become guilty of an offence falling within the Rome Statute, although the offence may have been committed outside Malta. **Enforcement of sentences:** Part 4 of Chap 453 deals with “Enforcement Of Sentences And Orders”, which, inter alia, provides that where Malta is designated by the ICC as the state in which a person, is to serve a sentence of imprisonment imposed by the ICC, and after the Minister informs the ICC that the designation is accepted, the Minister shall issue a warrant authorizing: (a) the bringing of the prisoner to Malta, (b) the detention of the prisoner in Malta in accordance with the sentence of the ICC, and (c) the taking of the prisoner to a prison, within the meaning of the Prisons Act, in Malta. **Victims:** Article 12 of Chap 453 provides that The Minister may make regulations to provide for the enforcement in Malta of orders by the ICC against convicted persons specifying reparations to, or in respect of victims. Revised: November 2005.

Moldova**Signature 8 Sept. 2000.**

In early 2004, the government established an Inter-ministerial Working Group to analyze the compatibility of the national law with the ICC and in order to draft ratification and implementing legislation. The Working Group has only met twice and on an informal basis and no concrete result has been achieved so far. National authorities in Chisinau reported about constitutional obstacles, particularly extradition and immunities and some political obstacles such as the frozen conflict in

Transnistria and the fact that Moldova would not be able to pay its dues if acceding to the ICC. The prevalent opinion is that the ratification bill shall be introduced together with the Law on amendments of the national legislation. **Substantive Criminal Law:** A new criminal code entered into force in July 2003; it includes a new chapter on crimes against peace and security. While the code provides for a good definition of genocide, war crimes are not comprehensively defined and there is no definition at all of crimes against humanity. Over the last year, two important events contributed to raise awareness on the need to ICC ratification: a conference organized by the Justice Ministry and the ICRC Regional Delegation in Kyiv (in March 2004) and a seminar convened by Pro-NGO in late November and aimed exclusively at national civil society, which touched upon different ICC features and campaigning issues. Revised: December 2004.

Monaco

Signature 18 July 1998

In order to ratify the Statute, Monaco must first amend the Constitution in relation to the executive powers of the Royal Family. A study on the internal implications of ratification is taking place. Revised: August 2002.

The Netherlands

Signature 18 July 1998-Ratification 17 July 2001

Substantive Criminal Law: The International Crimes Act was approved by the Senate on the 17 of June and formally adopted on 19 June 2003. The International Crimes Act entered into force on 1 October 2003. Genocide, crimes against humanity, war crimes and torture are now brought under one bill. Crimes against humanity had not been punishable in The Netherlands before. The other crimes were already punishable under Dutch law, but were spread over various laws. The Act adds active and passive nationality as bases for jurisdiction. It further allows for universal jurisdiction over the crimes contained in the Act, with one restriction: it allows for the prosecution of an individual with no ties to the Netherlands (meaning that neither the suspect nor the victim has the Dutch nationality), but only if that individual is located on the territory of the Netherlands. The Act contains provisions for immunity from prosecution for one of the offences contained in the Act. Based on the D.R. Congo v. Belgium decision of 14 February 2002 by the International Court of Justice, the Act provides that criminal prosecution is excluded for foreign heads of state, heads of government and ministers of foreign affairs as long as they are in office, as well as other persons whose immunity is recognized under customary international law. Also, immunity is recognised for those individuals who have been granted immunity under a treaty to which the Netherlands is a party. **Cooperation:** the ICC Implementation Act, in force since 1 July 2002 and the associated Amendment Act, in force since 8 August 2002. The Implementation Act gives the Dutch Government a statutory basis for transferring suspects to the ICC, protecting and guarding them and transporting them to the Court; it can also furnish the ICC with legal assistance. The English versions of the Dutch implementing legislation and short introductions to the laws are available at: www.minbuza.nl/default.asp?CMS_ITEM=141EF85F8B6A40D49F4592D4E40E6D4FX3X61608X9 **APIC:** Signed: 11 September 2003. Revised: October 2003.

Norway*

Signature 28 August 1998-Ratification 16 Feb.2000

Substantive Criminal law: A Permanent Commission for Penal Law submitted its reports and a proposal to include the crimes in the Rome Statute in the Norwegian Penal Code. **Cooperation:** Norway has a law of cooperation and enforcement of sentences since the 15 June 2001 (Act No. 65 of 2001). **APIC:** Ratified:10 September 2002. Revised: May 2002. **Universal Jurisdiction:** a 'Centre for Criminal Investigations', a Unit under national police to deal with International Crimes has been set. Revised: February 2006.

Poland

Signature 9 April 1999-Ratification 13 Nov. 2001

Cooperation: The new provisions on cooperation with the ICC constituting a part of the Code of Criminal Procedure entered into force 23 November 2004. It consists of a separate chapter on 'Cooperation with the ICC'. Main features: no limits for arrest and surrender; The Prosecutor can be present at hearings, has the right to ask questions, is authorised to make records; Only Polish nationals will be accepted in Polish detention centres, in enforcement of ICC sentences. **Substantive criminal law:** The new Penal Code including the offences of genocide, crimes against peace and war crimes was enacted in 1997. A reviewed penal code has recently been adopted and includes the crimes under the Rome Statute, as well as the principles of criminal law. Some gaps with the Rome Statute provisions remains, but those are being dealt with by a draft bill that is now in the legal department, and that following an interministerial consultation will be passed to Parliament. **APIC:** Signature on 30 June 2004. The request for ratification is ready and should be adopted by Parliament at the end of the year. Revised: October 2004. **Universal jurisdiction:** The prepared draft also deals with Universal Jurisdiction. Offences committed abroad when obliged to prosecute certain crimes provided under international conventions. If Poland does not extradite, it should carry prosecutions. Revised: November 2005.

Portugal**Signature: 7 Oct. 1998-Ratific: 5 February 2002.****Substantive Criminal Law:** The law implementing the Rome Statute into Portuguese legislation was published in the Official Journal (Diário da República- I Série – A, No 171-22 July 2004) on 22 July 2004.

It includes definitions of violations of international humanitarian law. It is available at: www3.parlamento.pt/PLC/Iniciativa.aspx?ID_Ini=19716. On the 10th of November, Amnesty International had sent a letter to the President of the Committee with comments on this and two other proposals, namely on the definitions of crimes, universal jurisdiction, criminal responsibility, impunity, immunities and guarantees of fair trials. This letter is available at: [http://web.amnesty.org/aidoc/aidoc_pdf.nsf/Index/EUR380052003PORTUGUESE/\\$File/EUR3800503.pdf](http://web.amnesty.org/aidoc/aidoc_pdf.nsf/Index/EUR380052003PORTUGUESE/$File/EUR3800503.pdf)

APIC: Signature: 10 December 2002. Revised: June 2004.**Romania****Signature 7 July 1999–Ratification 11 April 2002**

Cooperation: A new law on international relations and cooperation on criminal matters, Law 299/2004, July 2004 has been enacted. The Constitution was reviewed in October 2003, for two purposes: to enable integration of Romania in the European Union and to ensure cooperation with International Tribunals and the ICC. The constitutional provisions on immunities have also been amended. A new Code of Criminal Procedure was enacted in 2003. A new Law on Victims and Witness protection was adopted and covers also situations of international crimes. It contains dispositions on compensation, redress and reintegration. **Substantive criminal law:** The new Criminal Code contains a chapter on crimes against humanity. Since the definitions of the crimes are not totally compatible with the RS, a new law, only on International Crimes, should be drafted in order to ensure full complementarity. This draft should be finalised in 2005. **APIC:** Signature on 30 June 2004. Revised: September 2004.

Russian Federation**Signature 13 Sept. 2000**

At a meeting (December 2003) with his Argentinean counterpart, Russian Foreign Minister renewed the firm and clear commitment of his government to the ICC and agreed on the importance that the international community has assigned to the Statute. In February 2003 a conference on ratification and implementation of the Rome Statute took place in the Moscow Duma. Many MPs took the floor in favour of the earliest ratification possible of the RS by Russia.

A comparative study of national legislation and provisions of the Rome Statute has been conducted. The problems raised were: i. Constitutional issues; ii. Material criminal law; iii. Cooperation with the ICC. For surrender and extradition, a legal study concluded that no constitutional amendments are required.

The Criminal Code must be adapted to the Rome Statute and parts of the Criminal Procedural Code must be reviewed. Proposals for amendments should be sent soon to the Presidential Administration along with a formal proposal to launch the ratification of the Rome Statute. Once the President has reviewed the proposals, they will be sent to the Duma, where they will be submitted to several committees (International Affairs Committee, Legal Affairs Committee, Security Committee). Revised: February 2004.

San Marino**Signature 18 July 1998 – Ratification 13 May 1999****Serbia and Montenegro*****Signature 19 Dec. 2000–Ratific.6 Sept. 2001**

On 5 February 2003, the State of Serbia and the State of Montenegro proclaimed the coming into force (with immediate effect) of the Constitutional Charter of the State Union of Serbia and Montenegro. Following this changes, jurisdiction in the area of the criminal substantive and procedure law belongs to the Republics, which are members of the state union of Serbia and Montenegro. **Cooperation:** There is no law regulating cooperation with the ICC. It is not yet clear whereas cooperation is of the competence of the State Union or of each republic. For some opinion, in accordance to the Constitutional Charter of the State Union, cooperation with the ICC is to be dealt with by the State Union of Serbia and Montenegro. Only when the new Constitutions for Serbia and for Montenegro are adopted will the cooperation competence be clarified.

Serbia: Substantive Criminal Law: A new Criminal Code adopted in September 2005, has entered into force on January 2006. Chapter 34 on the ‘Criminal Offences against humanity and other rights guaranteed by International Law’, includes international crimes with similar definitions as in the Rome Statute, but there is still room for improvement.. The Ministry of Justice of Serbia and the OSCE Mission in Belgrade organised a round table to discuss the draft, on the 30th of September 2004. Representatives of the government, national human rights NGOs (Belgrade Centre for Human Rights, Humanitarian Law Centre) representatives of professional legal bodies (the association of prosecutors) and university law professors

attended the discussion and had the possibility to present written comments to the Working Group. Amnesty International participated in the debate and presented a summary of its main concerns, based on its Checklist for effective implementation (available at <http://www.amnesty.org/icc>). Serbia enacted a Criminal Code in 1994 that regulates special offences, which has been amended in 2002 and in April 2003. In June 2003, the Serbian Parliament approved war crimes legislation, allowing for the local prosecutions of war crimes suspects: "Law on the Organization and Jurisdiction of Government Authorities in Prosecuting Perpetrators of War Crimes." Under this law, the Serbian authorities set up a legal and institutional framework for the successful conduct of war crime trials. The law creates the Office of the War Crimes Prosecutor, the War Crimes Investigation Service, the War Crimes Panel at the Belgrade District Court, the Special Detention Unit as well as some procedural innovations, such as the questioning of witnesses via video link, the audio recording of the main hearing proceedings (already applied in organised crime trials), etc. The "Law on Organisation and Jurisdiction of Government Authorities in Prosecuting Perpetrators of War Crimes", 7 July 2003, is Available at: http://www.osce.org/documents/fry/2003/07/446_en.pdf. **APIC:** Ratified: 7 May 2004. Revised: February 2006.

Montenegro:

Substantive criminal law: A new Criminal Code was enacted in December 2003. On the 11th December 2003, the draft criminal code passed the Parliament's Legislative Committee. Chapter 35 is dedicated to "Crimes Against Humanity And Rights Guaranteed Under International Law". The Draft version of the Criminal Code is available at: www.gom.cg.yu/files/1063208955.doc.

Kosovo / UNMIK:

Substantive Criminal Law: A new Criminal Code defines war crimes and introduces new offences, such as crimes against humanity. According to UNMIK's Regulation UNMIK/REG/2003/25, the Provisional Criminal Code shall enter into force nine months after the date of signature on 6 April 2004. The Criminal Code is available at: www.unmikonline.org/regulations/2003/RE2003_25_criminal_code.pdf. **Cooperation:** The issue of cooperation with the ICC has not yet arisen, according to UNMIK (May 2003). UNMIK would be open to cooperation with the ICC where appropriate, though the legal framework for such cooperation would first need to be established directly between UNMIK and the ICC. According to a UNMIK's Regulation UNMIK/REG/2003/26, a Provisional Criminal Procedure Code shall enter into force nine months after the date of signature on 6 April 2004. The Provisional Criminal Procedure Code of Kosovo is available at: www.unmikonline.org/regulations/2003/RE2003_26_PCPC.pdf Under Chapter XVIII, on "Procedures for the Transfer of Defendants and Convicted Persons to and from Foreign Jurisdictions", the CPC's Article 516 reads: "(2) The procedures regarding the co-operation with the International Criminal Court, (...) lie outside the scope of the present Code and are governed by separate legal arrangements." **APIC:** Signature: 18 July 2003-Ratification: 7 May 2004. Revised: June 2004.

Slovakia

Signature 23 Dec. 1998-Ratific. 11 April 2002

Substantive criminal law: On 19 June 2002, the Slovak Parliament passed the Law No. 421/2002 amending the Penal Code. This amendment has become effective as of the 1st September 2002. The following provisions have been introduced to the Penal Code with the aim to implement the Rome Statute:

Crimes: Introduction of crimes against humanity; "Acting under lawful orders" does not constitute a full defence in case of genocide and crimes against humanity (§ 15a); Universal jurisdiction: introduced also for the crimes against humanity (for war crimes and crime of genocide the universal jurisdiction already existed) (§19).

The possibility of imposing the sentence of life imprisonment under certain conditions in case of crime against humanity has been introduced (§ 29 par.3).

The responsibility of military commander (including "should have known" responsibility) and other superior responsibility for war crimes, crimes against humanity and crime of genocide have been introduced to Chapter X (Chapter X contains crimes under international law) (§ 265a). The definition of internal armed conflict has been specified in this context.

The Law No. 253/2001 Coll. of Laws (effective as of 1st August 2001) also amended the Penal Code. This law enables to extradite or surrender the citizen of the Slovak Republic if such an obligation exists stemming from the international treaty or the binding decision of the international organization. **Cooperation:** The following amendments to the Code of Criminal Procedure (Law No. 422/2002 Coll. of Laws) passed on 20 June 2002 (effective as of 1st October 2002): The new provision (§ 374) of the CCP contains a specific reference to the ICC established under international treaty or established under the decision of the international organization which is binding for the Slovak Republic. If there is a request for cooperation with the ICC, the provisions of the respective Chapter on Cooperation with Foreign Authorities are applicable for such request taking into account that Rome Statute takes precedence over law. There is an ongoing process of preparing

a recodification of substantive and procedural penal law, new drafts of the Penal Code and the Code of Criminal Procedure is under discussion. Source: Conference "ICC-Implementation in Central and Eastern Europe", Bucharest, 9-11 May 2003. **APIC:** Signature: 19 December 2003; Ratification: 26 May 2004. Revised: June 2004.

Slovenia*

Signature 7 Oct. 1998 – Ratification 31 Dec. 2001

Law of **Cooperation** with the ICC: Passed by the Parliament on the 25th of October 2002. It is published in the Official Gazette. An unofficial translation to English is available at: http://web.amnesty.org/pages/int_jus-legislation_slovenia-eng/

Substantive Criminal Law: The Law on Amendments to the Criminal Code (Official Gazette of RS, No. 40/04), which comprises the implementation of substantive provisions of the Rome Statute, came into force on 5 May 2004. With this law criminal offences against humanity and international law, criminal offences against judiciary and criminal offences from the field of obstruction of justice in the Slovene Criminal Code are harmonized with the provisions of the Rome Statute. Only special provisions on command responsibility were not implemented yet. Partially civil and military command or responsible persons may be held liable for the offences from the Rome Statute on the basis of the General Part of the Slovene Criminal Code on participation in criminal offence (i. e. Complicity, Criminal Solicitation, Criminal Support). Source: Ministry of Justice Slovenia. **Enforcement of sentences:** Enforcement of sentences is regulated in the Criminal Sanctions Enforcement Act (official Gazette of the RS, No. 22/00). Under the provisions of this law criminal sanctions and other measures passed by domestic courts in a criminal procedure are enforced. The Ministry of Justice of Republic of Slovenia is drafting the proposal of the Law on Amendments to the Criminal Sanctions Enforcement Act, which will enable Republic of Slovenia to conclude the agreement with the International Criminal Court to allow the enforcement of the sentenced passed by the International Criminal Court in Slovene prisons. Since the maximum prison sentence according to the provisions of the Criminal Code is thirty years, this will also be the limitation regarding the enforcement of sentences, passed by the International Criminal Court, in Republic of Slovenia. The Government of Republic of Slovenia will debate the proposal by the end of December 2005 and submit it to the Parliament for adoption. Source: Ministry of Justice. **Victims:** a) The compensation of victims of violent intentional crimes is regulated by the Compensation of Crime Victims Act (Official Gazette of RS, No. 101/05), which came into force on 11 November 2005 and will become applicable on 1 January 2006. The compensation for recognized damage will be assured by the state budget, regardless of the result of concrete criminal procedure or liability of perpetrator. The law refers to citizens of Republic of Slovenia and citizens of other states members of the European Union. Until 1 January 2006 the victim of crime may acquire the compensation from the perpetrator by claiming for indemnification in the criminal procedure or suing for damages in civil procedure. For the victims of criminal offences from the field of terrorism the compensation is assured by the state according to provisions of the Obligations Code.

b) For the present the protection of witnesses in criminal procedure is regulated by the Criminal Procedure Act (Official Gazette of RS, No. 96/04 - Officially Consolidated Text 2 and No. 101/05) in the manner which enables the judge to order the anonymity of endangered witness during interrogation. The Government of Republic of Slovenia has already submitted the proposal of the Witness Protection Act to the Parliament, which will debate it on its 11th session which starts on 21 November 2005. It is expected that the proposed law will be passed by the Parliament by the end of November 2005. The new law will regulate competent bodies, procedure for ensuring the protection, protection measures, witness protection programmes and international co-operation. The protection of endangered witnesses and their close persons will be possible in the pre-trial procedure, trial procedure and after criminal procedure. The law will also give the legal basis for the agreements between Republic of Slovenia and competent bodies of other states or International Criminal Court on witness protection in concrete cases. **APIC:** Signature: 25 September 2003 - Ratification: 23 September 2004. Last revised: January 2006.

Spain

Signature 18 July 1998-Ratification 25 Oct 2000

Cooperation: The Law on Cooperation with the ICC titled " Ley Orgánica 18/2003, de Cooperación con la Corte Penal Internacional" (B.O.E. 11/12/2003) was approved by the Parliament in December 2003. An amendment to this law could soon be carried out.

Substantive criminal law: The new Penal Code including crimes under the Rome Statute was published in the "Boletín Oficial del Estado": Ley Organica 15/2003, 25 Nov. por la que se modifica la L.O. 10/95, 23 Nov. del Código Penal (B.O.E. de 26/11/2003). Both laws can be found at www.boe.es

APIC: Signed 21 April 2003. Revised: February 2004.

Sweden

Signature 7 Oct. 1999- Ratification 28 June 2001

Cooperation: On the 25th of April 2002, the Swedish Parliament adopted the new Act on Cooperation with the Interna-

tional Criminal Court. It covers arrest and surrender to the Court, other forms of Cooperation and enforcement of sentences and other decisions. It entered into force on the 1st of July 2002 and can be found, in draft form and in Swedish, at: http://justitie.regeringen.se/propositionermm/propositioner/pdf/p200102_88.pdf

Substantive Criminal Law: The Ministry of Justice has indicated that the draft criminal code will be sent to the Parliament in the autumn of 2006 at the earliest. Until April 2003, NGOs had the opportunity to study and comment on the draft criminal code. A report is published, with a summary in English (page 21) at: http://justitie.regeringen.se/propositionermm/sou/pdf/sou2002_98a.pdf The Commission in charge of revising the criminal code for the implementation of international crimes and jurisdiction over such crimes had first submitted a report on the 31st October 2002. Swedish Amnesty International lawyers' group, who has been very involved in this process, pointed out some major concerns: Sweden has not changed its immunity regulations, which are not in accordance with the RS. The Constitution must be amended but that will happen only in 2006 with the next elections. When Sweden ratified the Statute, the government stated that it might not be necessary to change the immunity regulations, since it would be unlikely that Swedish members of government would commit crimes against the statute. AI Sweden is urging for the necessary changes. There is one inquiry about penalising crimes against the Court's jurisdiction; a memorandum is expected. There is a memorandum about the necessary changes in the Swedish Penal Code and Procedural Code (new crimes, universal jurisdiction etc). Source: Swedish Amnesty's lawyers' group and UNA-Sweden. **APIC:** Signature: 19 February 2004-Ratification: 13 January 2005. **Universal Jurisdiction:** It is proposed in the draft criminal code that Swedish courts shall have universal jurisdiction over genocide, crimes against humanity and war crimes i.e. be competent to try to charges on such crimes regardless of where or by whom they have been committed. Revised: November 2005.

Switzerland

Signature 18 July 1998–Ratification: 12 Oct. 2001

Cooperation: On the 21st June 2001, Switzerland adopted a Federal Law of Cooperation with the ICC. A separate law implemented Art. 70 of the Rome Statute. In order to establish effective cooperation, a central service has been created under the Federal Justice Office. It is competent to deal with ICC demands e.g. on transfer of individuals, proof and audition of suspects. This office also decides when collaboration is admissible, order the necessary measures and demand a federal authority or Canton to execute the request. **Substantive Criminal law:** The Swiss Administration has just finalised the drafting the Legislation providing domestic jurisdiction over all the ICC crimes, which is now open for public consultation ending on the 31st of December 2005. Relevant NGOs, together with other members of civil society, are being invited to provide their view. The main focus is on revising provisions of the general part of the Swiss penal code and penal military code. For more information please visit: http://www.ejpd.admin.ch/doks/mm/content/mm_view-f.php?mmID=2469 or http://www.ejpd.admin.ch/doks/mm/content/mm_view-f.php?mmID=2469&topic=Mens. has just finalised a project on complementary law with the ICC, which has now been presented to the Swiss Coalition for the International Criminal Court for adoption. This project is an "ideal" complementary law. Once adopted, it will be used as a response to the public consultation on behalf of the Swiss Coalition for the ICC. If you are planning to prepare comments to the draft law, it would be good to get in touch with TRIAL to join efforts and coordinate actions in order to achieve the best possible implementing law. The person responsible for the project at TRIAL is David Lounici (Email: david.lounici@trial-ch.org; Tel: 0033 667 45 21 93).

UJ: on December 15, 2003, the Conseil National restricted the scope of Swiss UJ provisions by amending the War penal code, so to authorize the prosecution of a war criminal only if he/she is present on the Swiss territory and has a "close link" with Switzerland. Source: TRIAL (track Impunity Always) and Federal Department of Foreign Affairs.

APIC: Signature on 10 September 2002. Revised: October 2004.

Tajikistan

Signature 30 Nov. 1998-Ratification 5 May 2000

At a Conference on Implementing Legislation, in Dushanbe, Tajikistan, 4-5 October 2004, a representative of the Presidential Administration announced that Tajikistan would accede to the APIC in the near future and that Tajikistan would implement the Rome Statute. A working group for the implementation of the RS has been created and found that amendments to the Criminal Code and to the Code of Criminal Procedure are required and so is a Law on Cooperation. Revised: October 2004.

Turkey

No signature.

On October 8, 2004, Turkish Prime Minister Tayyip Erdogan addressed the Parliamentary Assembly of the Council of Europe in Strasbourg saying that "Turkey will soon approve the Rome Agreement after completing its internal preparations and will become part of the International Court Convention".

A new criminal code has passed in the Parliament with definitions of genocide and crimes against humanity. A working group is preparing an International Crimes Act to fully implement the Rome Statute in what regards complementarity. A

definition of war crimes should also be included in this Act.

On May 7 2004, the Turkish Parliament approved, with a majority of 457 votes, an amendment to Art. 38 of the Constitution that reads: "Except for obligations required by becoming Party to the Statute for the ICC, no citizen shall be extradited to a foreign country on an account of an offence" (non-official translation). This amendment has been signed and published in the official gazette on the 22 May 2004. The Turkish version of the amendment is available at: <http://www.tbmm.gov.tr/anayasa/anayasa2004.htm> whereas the English translation is expected soon at <http://www.tbmm.gov.tr/anayasa/constitution.htm>. Revised: October 2004.

Turkmenistan

No signature. No recent news.

Ukraine*

Signature: 20 Jan. 2000

A draft law on constitutional amendments – prepared by the MoJ and MFA – was officially sent to the Presidential Administration for considerations already in March/April 2002. The Presidential Administration should have then sent the draft project to the Constitutional Court for review by September 2002. Official reports state that Ukraine is considering the ruling of the Constitutional Court stating that the Rome Statute ratification is incompatible with the constitution of the country. A constitutional amendment is being prepared and a draft should be presented to the Parliament following parliamentary elections in March. If this amendment is passed by the Parliament, one of the major obstacles to Ukraine's ratification will have been removed. The government will then have to present the ratification bill to the Parliament, which must pass it by a 2/3 majority, and draft legislation to effectively implement the Rome Statute into Ukraine's domestic legal order. Revised: February 2004

United Kingdom

Signature 30 Nov. 1998 – Ratification: 4 Oct. 2001

The ICC Act 2001, allowing ratification, incorporates into domestic law the offences in the ICC Statute and makes provision for them to be dealt with domestically in the Crown Court. The Act makes provision for the arrest and surrender of persons in the UK wanted by the ICC and for the serving of custodial sentences in the UK of persons convicted by the Court. **APIC:** Signature: 10 September 2002. The UK said it is now unable to ratify APIC but should do so in 2006.

Victims: The UK's implementing legislation contained no provision for reparations for victims for crimes under the statute. However the UK has contributed to the ICC Victims Trust fund.

Universal Jurisdiction: While the ICC Act 2001 does not create universal jurisdiction for the offences mentioned under section 51, you should note that since the Geneva Conventions Act 1957 and the Geneva Conventions (Amendment) Act 1995 remain in force, there continues to be universal jurisdiction in respect of grave breaches of the Geneva Conventions and the first Additional Protocol, as required by those instruments.

Sentence Enforcement: The UK is nearing completion of the negotiation of a Sentence Enforcement Agreement. However, a legislative amendment regarding extradition is required before signature is possible.

Revised: November 2005.

Uzbekistan

Signature 20 December 2000

ICC ratification is not included in the political agenda. Source: Nozima Kamalova, Legal Aid Society.

Acronyms:

APIC: Agreement on Privileges and Immunities.- **ICC:** International Criminal Court.-**RS:** Rome Statute.

STATES PARTIES TO THE ROME STATUTE OF THE ICC
(100 ratifications as of 22 February 2006)

AFRICA**(27 STATES PARTIES)**

Benin 22 January 2002
 Botswana 8 September 2000
 Burkina Faso 16 April 2004
 Burundi 21 September 2004
 Central African Rep. 3 October 2001
 Congo (Brazzaville) 3 May 2004
 Dem. Rep. of Congo 11 April 2002
 Djibouti 5 November 2002
 Gabon 20 September 2000
 Gambia 28 June 2002
 Ghana 20 December 1999
 Guinea 14 July 2003
 Kenya 15 March 2005
 Lesotho 6 September 2000
 Liberia 22 September 2004
 Malawi 19 September 2002
 Mali 16 August 2000
 Mauritius 5 March 2002
 Namibia 25 June 2002
 Niger 11 April 2002
 Nigeria 27 September 2001
 Senegal 2 February 1999
 Sierra Leone 15 September 2000
 South Africa 27 November 2000
 Tanzania 20 August 2002
 Uganda 14 June 2002
 Zambia 13 November 2002

AMERICAS**(22 STATES PARTIES)**

Antigua & Barbuda 18 June 2001
 Argentina 8 February 2001
 Barbados 10 December 2002
 Belize 5 April 2000
 Bolivia 27 June 2002
 Brazil 20 June 2002
 Canada 7 July 2000
 Colombia 5 August 2002
 Costa Rica 7 June 2001
 Dominica 12 February 2001

Dominican Republic 12 May 2005
 Ecuador 5 February 2002
 Guyana 24 September 2004
 Honduras 1 July 2002
 Mexico 28 October 2005
 Panama 21 March 2002
 Paraguay 14 May 2001
 Peru 10 November 2001
 St. Vincent & Grenadines 3 December 2002
 Trinidad & Tobago 6 April 1999
 Uruguay 28 June 2002
 Venezuela 7 June 2000

ASIA/PACIFIC ISLANDS**(12 STATES PARTIES)**

Afghanistan 10 February 2003
 Australia 1 July 2002
 Cambodia 11 April 2002
 East Timor 6 September 2002
 Fiji 29 November 1999
 Marshall Islands 7 December 2000
 Mongolia 11 April 2002
 Nauru 12 November 2001
 New Zealand 7 September 2000
 Rep. of Korea 13 November 2002
 Samoa 16 September 2002
 Tajikistan 5 May 2000

EUROPE/CIS**(38 STATES PARTIES)**

Albania 31 January 2003
 Andorra 30 April 2001
 Austria 28 December 2000
 Belgium 28 June 2000
 Bosnia-Herzegovina 11 April 2002
 Bulgaria 11 April 2002
 Croatia 21 May 2001
 Cyprus 7 March 2002
 Denmark 21 June 2001
 Estonia 30 January 2002
 Finland 29 December 2000
 France 9 June 2000

Georgia 5 September 2003
 Germany 11 December 2000
 Greece 15 May 2002
 Hungary 30 November 2001
 Iceland 25 May 2000
 Ireland 11 April 2002
 Italy 26 July 1999
 Latvia 28 June 2002
 Liechtenstein 2 October 2001
 Lithuania 12 May 2003
 Luxembourg 8 September 2000
 Macedonia, FYR 6 March 2002
 Malta 29 November 2002
 Netherlands 17 July 2001
 Norway 16 February 2000
 Poland 12 November 2001
 Portugal 5 February 2002
 Romania 11 April 2002
 San Marino 13 May 1999
 Serbia and Montenegro 6 September 2001
 Slovakia 11 April 2002
 Slovenia 31 December 2001
 Spain 24 October 2000
 Sweden 28 June 2001
 Switzerland 12 October 2001
 United Kingdom 4 October 2001

N. AFRICA/ MIDDLE EAST**(1 STATE PARTY)**

Jordan 11 April 2002

TOTAL RATIFICATIONS: 100

AGREEMENT ON PRIVILEGES AND IMMUNITIES ENTERS INTO FORCE
STATES URGED TO RATIFY OR ACCEDE

Ratification (36)

Andorra 11 February 2005
Austria 17 December 2003
Belize 14 September 2005
Belgium 28 March 2005
Benin 23 February 2006
Bolivia 20 January 2006
Burkina Faso 10 October 2005
Canada 22 June 2004
Cyprus 18 August 2005
Croatia 17 December 2004
Denmark 3 June 2005
Estonia 13 September 2004
Finland 8 December 2004
France 17 February 2004
Germany 2 September 2004
Guyana 16 November 2005
Iceland 1 December 2003
Latvia 23 December 2004
Lesotho 16 September 2005
Liberia 16 September 2005
Liechtenstein 21 September 2004
Lithuania 30 December 2004
Luxembourg 20 January 2006
Macedonia 19 October 2005
Mali 8 July 2004
Namibia 29 January 2004
New Zealand 14 April 2004
Norway 10 September 2002
Panama 16 August 2004
Paraguay 19 July 2005
Romania 17 November 2005
Serbia and Montenegro 7 May 2004
Slovakia 26 May 2004

Slovenia 23 September 2004
Sweden 13 January 2004
Trinidad and Tobago 6 February 2003

Signature (62)

Andorra 22 June 2004
Argentina 7 October 2002
Austria 10 September 2002
Bahamas 30 June 2004
Belgium 11 September 2002
Benin 10 September 2002
Belize 26 September 2003
Bolivia 23 March 2004
Brazil 17 May 2004
Bulgaria 2 May 2003
Burkina Faso 7 May 2004
Canada 30 April 2004
Colombia 18 December 2003
Costa Rica 16 September 2002
Croatia 23 September 2003
Cyprus 10 June 2003
Denmark 13 September 2002
Ecuador 26 September 2002
Estonia 27 June 2003
Finland 10 September 2002
France 10 September 2002
Germany 14 July 2003
Ghana 12 September 2003
Greece 25 September 2003
Guinea 1 April 2004
Hungary 10 September 2002
Iceland 10 September 2002
Ireland 9 September 2003
Italy 10 September 2002

Jamaica 30 June 2004
Jordan 28 June 2004
Latvia 29 June 2004
Lithuania 25 May 2004
Luxembourg 10 September 2002
Madagascar 12 September 2002
Mali 20 September 2002
Mongolia 4 February 2003
Namibia 10 September 2002
The Netherlands 11 September 2003
New Zealand 22 October 2002
Norway 10 September 2002
Panama 14 April 2003
Paraguay 11 February 2004
Peru 10 September 2002
Poland 30 June 2004
Portugal 10 December 2002
Romania 30 June 2004
Republic of Korea 28 June 2004
Senegal 19 September 2002
Serbia & Montenegro 18 July 2003
Sierra Leone 26 September 2003
Slovakia 19 December 2003
Slovenia 25 September 2003
Spain 21 April 2003
Sweden 19 February 2004
Switzerland 10 September 2002
Tanzania 27 January 2004
Trinidad and Tobago 10 September 2002
Uganda 7 April 2004
United Kingdom 10 September 2002
United Republic of Tanzania 27 January 2004
Uruguay 30 June 2004

In light of the Court's official launch of investigations, the Coalition continues to urge States to make it a priority to ratify the Agreement on Privileges and Immunities of the Court (APIC). With the 10th ratification of the Agreement by Canada on 22 June 2004, the Agreement entered into force on 22 July 2004. To date, 31 countries have ratified the APIC, see above.

The Agreement on Privileges and Immunities of the Court was adopted by the Assembly on 9 September 2002 and provides the judges, officials and staff with privileges, immunities and facilities to ensure the effectiveness and independence of their work. The Agreement also provides a necessary set of privileges and immunities for victims, witnesses, counsel, experts and other persons involved in the Court. The Agreement was open for signature from 9 September 2002 until 30 June 2004 and entered into force on 22 July 2004. *For more information on efforts to promote ratification of this agreement, contact Cecilia Nilsson at: nilsson@iccnom.org*

CALENDAR OF EVENTS IN EUROPE

March

9 March **“Council Working group on Public International Law (Cojur-Subarea ICC)”**, Council of the European Union, Brussels

April

March-April (tbc) **4th consultative meeting of the Council of Europe**

10-14 April Side events to the Parliamentary Assembly of the Council of Europe, plenary session: **PGA dialogues on the ICC for Moldovan and Ukrainian MPs**. Strasbourg, France. Parliamentarians for Global Action. For more information please write to: donat@pga.org.

27 April **“Council Working group on Public International Law (Cojur-Subarea ICC)”**, Council of the European Union, Brussels

28 April **Hearing on the ICC** organised by the Sub Committee on Criminal matters and terrorism of the Legal Committee of the Council of Europe. The Hague. The Netherlands.

May

7-20 May **“6th International Investigator Course”**, organised by the Institute for International Criminal Investigations, taking place in The Hague. More information on: www.iici.info.

29 May Austria chairing the EU Presidency is organising a conference on the ICC with high level political representatives from the CIS countries in Salsbourg, Austria. For more information please contact: cavarretta@iccnw.org.

May EU Network of Contact Points for genocide, crimes against humanity and war crimes, organised by the EU Austrian Presidency.

June

7 June **“Council Working group on Public International Law (Cojur-Subarea ICC)”**, Council of the European Union, Brussels

NEW PUBLICATIONS

- ◆ **“Supranational Criminal Prosecution of sexual violence: The ICC and the Practice of the ICTY and the ICTR”**, Anne-Marie L.M. DE BROUWER, Volume 20, School of Human Rights Research, 2005 | ISBN 90-5095-533-9 | xiv+570 pp. | 85 euro | subscription 72,25 euro | paperback | Intersentia | www.intersentia.be. The 1996 report of the United Nations Special Rapporteur on Rwanda stated that during the 1994 genocide in Rwanda 'rape was the rule and its absence the exception'. Indeed, rape and other forms of sexual violence as constituting genocide, crimes against humanity or war crimes, directed in particular against women, have taken place on a massive scale since time immemorial and are still rampant.



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D. and Catherine T. MacArthur
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lands;
and from individual donors and
participating NGOs.*

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What is the Coalition for the International Criminal Court

The Coalition for the International Criminal Court (CICC) is a network of over two thousand civil society organisations in around 150 countries, supported through regional coordinators and liaisons based all over the world.

The role of the Coalition is to represent, facilitate and coordinate the work of its worldwide membership, while serving as the primary information resource on the ICC and a liaison between governments, International Criminal Court officials, international organisations, academics and civil society members.

The CICC is working since 1995, towards a common goal: the establishment of a permanent, fair and independent International Criminal Court. Since the Rome Conference adopted, in July 1998, by an overwhelming majority of states (120) the Rome Statute, the Coalition has been mandated to focus on five interconnected goals:

- **Promoting universal acceptance** and ratification of the Rome Statute, as well as promoting and facilitating technical cooperation to ensure the adoption of strong domestic implementing legislation;
- **Promoting education and awareness** on the ICC and the Rome Statute at the national, regional and global level;
- **Facilitating the effective participation of civil society and NGOs** as observers at the Assembly of States Parties, in particular, of representatives from the south;
- **Expanding and strengthening** the global network of organisations working on the ICC;
- **Assuring the effective functioning** of the ICC.

Since 1999, the European Office of the CICC is based in Brussels with a mandate to further the goals outlined above with a particular focus on Europe and Central Asia.

Historical Overview

With 100 States Parties as of the 24 November 2005, support to the ICC continues to expand. Yet, the universal nature of the Rome Statute calls for prompt and worldwide ratification and accession.

In June and July 1998, in an effort to strengthen mechanisms of international justice and bring an end to impunity, the international community met at the Rome Diplomatic Conference of Plenipotentiaries. The purpose of this gathering was to work on a treaty to establish the world's first permanent International Criminal Court. At that time, many thought it impossible that the five weeks of negotiations would result in the adoption of a treaty. Yet, on 17 July 1998, the Rome Statute of the ICC was adopted by a vote of 120 to 7, with 21 abstentions. Even with this enormous achievement, predictions were made that it would be decades before enough governments would make the political commitment and work through the complex legal issues to bring the treaty into force. Since the adoption of the Rome Statute, 139 countries signed the Court's treaty by the established deadline of December 31, 2000. With the deposit of the 60th ratification instrument on the 11th April 2002, the Rome Statute entered into force on the 1st July 2002, pursuant to article 126 of the Rome Statute, beginning the jurisdiction of the world's first permanent tribunal capable of trying individuals accused of the most serious violations of International Humanitarian Law: genocide, war crimes, crimes against humanity and once defined, aggression.

Following the entry into force of the Rome Statute on July the 1st 2002, the ICC established its headquarters in The Hague, the Netherlands, and sworn in its senior officials, including eighteen Judges, the Prosecutor and Registrar.

Latest development:

In June and July 2004, the Office of the Prosecutor announced the launch of formal investigations in the Democratic Republic of Congo and Uganda. On January, 7, 2005 the Prosecutor office announced a new State referral to the ICC by the Central African Republic (CAR). On February 15, the Registrar announced that the Ivory Coast has accepted the jurisdiction of the ICC. The UN Security Council referred the situation of Darfur, Sudan, to the ICC, with resolution 1593 adopted on the 31st of March 2005. On 13 October 2005, the Pre-Trial Chamber II of the ICC unsealed the warrants of arrest for 5 senior leaders of the Lord's Resistance Army (LRA) for Crimes Against Humanity and War Crimes committed in Uganda since July 2002".



The seat of the ICC in The Hague

Credit: Dutch Ministry of Foreign Affairs

What is the International Criminal Court

Based in The Hague, The Netherlands, the International Criminal Court (ICC) is the first permanent court capable of trying individuals accused of the most serious violations of international humanitarian and human rights law, namely genocide, crimes against humanity and war crimes. The treaty that established the ICC, the Rome Statute, entered into force on July 1, 2002, and provisional headquarters for the Court were opened shortly thereafter. Since that time all senior ICC officials, including the first 18 judges (of whom 7 are women); ICC Prosecutor Luis Moreno Ocampo of Argentina, and Registrar Bruno Cathala of France, have been elected and taken office. The ICC does not have jurisdiction over crimes committed before the 1st July 2002, the date the Rome Statute entered into force.

What are the triggering mechanisms of the International Criminal Court

States Parties can refer to the Prosecutor of the ICC situations in which crimes within the jurisdiction of the Court appear to have been committed and request the Prosecutor to investigate the situation (Art. 14 RS). The Prosecutor may also initiate investigations proprio motu on the basis of information received, for example from NGO communications. In order to proceed with the investigation, the Prosecutor must obtain authorisation from the Pre-Trial Chamber of the Court (Article 15 RS). In these cases, one of the following preconditions shall apply:

- Criteria of Territoriality: The ICC has jurisdiction over crimes committed in the territory of States Parties or in the territory of a Non State party that accepted on an ad hoc basis the jurisdiction; of the Court, regardless of the nationality of the perpetrator;
- Criteria of the Nationality of the accused: The ICC has jurisdiction over crimes committed by individuals who are nationals of States Parties, or of Non States parties which have accepted the jurisdiction of the Court, regardless of where the crime is committed.

The Rome Statute also envisages referrals to the ICC from the UN Security Council. The Security Council can, acting under Chapter VII of the Charter of the United Nations, refer a situation in which one or more crimes appear to have been committed. No prerequisite of territoriality or nationality is necessary (Article 13 (c) RS).

What is the system of the Rome Statute

The Principle of Complementarity: According to the Rome Statute, national jurisdictions have primary responsibility for bringing those responsible for genocide, crimes against humanity and war crimes to justice. The ICC does not replace national legal systems or the duty of each state to investigate and try individuals for such gross crimes. It is complementary to national jurisdictions. Thus, the ICC will only intervene if the State is unwilling or unable to investigate, prosecute and try an individual who allegedly committed the crimes foreseen in the Rome Statute. The State is unwilling, if, for example, a national decision has been made for the purpose of shielding the person concerned from criminal responsibility for the crimes foreseen in the Rome Statute- Article 17, 2(a). The State would be unable if, for example, it were incapable to carry out its proceedings, e.g. if the national criminal legislation does not foresee the crimes in the Rome Statute. Thus, national criminal legislation must be adopted in order to ensure that the State can carry out the investigation, prosecution and try the individual.

The general obligation of States Parties to cooperate fully with the Court in its investigations and prosecution:

States are obliged to provide any necessary procedures under national law for cooperation with the ICC. The ICC depends on the support and cooperation by States to assist the Prosecutor and the Court with the investigations, detaining and surrendering suspects, protecting and delivering evidence, protecting witnesses and victims, etc. Thus, implementation of dispositions enabling full cooperation with the ICC is fundamental. A most significant achievement of the ICC, in the long term, will result from it being used as a force in strengthening national criminal legislation, by including in the penal codes the criminal types foreseen in the Rome Statute with the same or even broader definitions, ensuring the application of the same principles of criminal law at the national level as well as including dispositions enabling full cooperation with the Court. Often, this implies amending the penal code, the criminal procedural code and in some cases, the Constitution. The CICC is very concerned that, as of today, only few countries have fully incorporated the necessary legislation.

What is the next ICC Campaign?

With the entry into force of the Rome Statute, a new epoch in international justice has begun. Much work remains to ensure that the Court will be as fair, effective and independent as possible, yet we are

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Steering Committee of the Coalition for the ICC

- Amnesty International;
- Asociacion pro Derechos Humanos;
- European Law Students Associations;
- Federation Internationale des Ligues des Droits de l'Hommes;
- Human Rights First;
- Human Rights Watch;
- No Peace Without Justice;
- Parliamentarians for Global Action;
- Rights and Democracy;
- Women's Initiative for Gender Justice;
- World Federalist Movement

inspired by the overwhelming commitment of governments and NGOs from every region of the world. Together, we will work to ensure that the potential of this great institution is fully realised. Members of the Coalition for the International Criminal Court are convinced that in addition to being a strong instrument for strengthening national justice systems, democracy and peace, the ICC represents a profoundly ethical response to the horrendous crimes suffered by millions of victims throughout history. Its creation is one of the best examples of what can be achieved through strong cooperation among governments, international organisations and civil society groups. Meanwhile, NGOs are mindful that in many ways, their work on the ICC is only beginning. The Coalition has identified critical goals for the next phase of its work, which include achieving worldwide ratification of the Rome Statute and ensure the development of strong implementing legislation in all signatory and ratifying countries, as well as accession to the Agreement on Privileges and Immunities (APIC), which allows the Court to protect officials, staff, victims, witnesses and other persons, buildings and resources. The CICC will also be monitoring the independence and transparency of the Court's work and support the activities of the Assembly of States Parties. With the intensification of the US campaign against the ICC, the Coalition and its members pledge to continue protecting the integrity of the Rome Statute.

Become a Member of the Coalition for the International Criminal Court/ CICC Membership Request Form

Fax +1 212 599 1332; or send an email to cico@iccnw.org

_____ wishes to join the NGO Coalition for the ICC,

And (Name of organisation)

- (1) wishes to be involved in maintaining the integrity of the Rome Statute of the ICC;
- (2) wishes to be involved in ensuring the ICC will be as fair, effective and independent as possible; and,
- (3) makes an active commitment to world-wide ratification and implementation of the Rome Statute of the ICC.

(Name and title of representative of organisation)

(Address)

Telephone/Fax

Email

Please return this form to: The NGO Coalition for the International Criminal Court c/o WFM, 708 Third Avenue, 24 Floor, New York, NY, 10017, USA.

THE ICC ON THE INTERNET

Amnesty International: www.amnesty.org/icc/

Asociacion Pro Derechos Humanos (Aprodeh): <http://aprodeh.org.pe>

Benjamin Ferencz's website: www.benferencz.org.

Coalition for the ICC: <http://www.iccnw.org>

Committee for an effective International Criminal Law (CoEICL): <http://www.coeicl.de/>

Constitutional and Legal Policy Institute: <http://www.osi.hu/colpi/indexie.html>

Council of Europe web page on the ICC: <http://www.legal.coe.int/criminal/icc/Default.asp?fd=docs&fn=Docs.htm>

Council of the European Union: <http://ue.eu.int/pesc/icc/en/Index.htm>

ELSA International: <http://www.elsa.org>

European Commission, EuropeAid Co-operation Office:

http://europa.eu.int/comm/europeaid/projects/eidhr/conferences_cpi_en.htm

ECEuropean Initiative for Democracy and Human Rights: www.europa.eu.int/comm/europeaid/projects/eidhr/index_en.htm

Fédération Internationale des Ligues des Droits de l'Homme: www.fidh.org

Human Rights Watch: <http://www.hrw.org>

International Centre for Human Rights and democratic development: <http://www.icj.org/>

International Commission of Jurist: www.icj.org/

International Criminal Court: www.icc-cpi.int/

Lawyers Committee for Human Rights: <http://www.lchr.org>

No Peace Without Justice: www.npwj.org

The Netherlands, Ministry of Foreign Affairs' website on the ICC: www.minbuza.nl/default.asp?CMS_ITEM=MBZ453053

United Kingdom Foreign and Commonwealth Office on the ICC: www.fco.gov.uk/news/keythemapage.asp?PageId=158

United Nations ICC website: www.un.org/law/icc/statute/status.htm

Victims Rights Working Group: www.vrwg.org

Women's Initiatives for Gender Justice: www.iccwomen.org

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