

Central and Eastern European Initiative for International Criminal Law and Human Rights

DEMOCRATIZING KNOWLEDGE ON INTERNATIONAL CRIMINAL JUSTICE

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Mindful of the Organization for Security and Co-operation in Europe (OSCE) participating States' commitment to observe international obligations to prosecute and punish those guilty of core international crimes (Rome 1993, Helsinki 2008), and of the 1993 Resolution of the Parliamentary Assembly of the OSCE on the International Criminal Court (ICC) calling on participating States to adopt effective implementation laws to the Rome Statute, co-operate with and assist the ICC, work together for a universal accession to the Rome Statute, and adopt the most progressive definitions of all crimes under international law,

Mindful of the efforts that the OSCE makes in furthering the fight against impunity for core international crimes, in particular those committed during armed conflict in the 1990s in the Balkans, and also for acts of terrorism, hate crimes and violence against women that can amount to core international crimes,

Recognizing the work of the OSCE, through different field operations and the Office for Democratic Institutions and Human Rights (ODIHR), and in co-operation with participating States and external actors, to preserve and build upon the legacy of the International Criminal Tribunal for former Yugoslavia within the EU-funded War Crimes Justice Project, which comprised of, in particular, developing teaching resources and financing the employment of promising young legal experts to support local authorities adjudicating war crimes,

Mindful of the OSCE participating States' commitments to promote human rights through education and training, also in co-operation with non-governmental organizations, with special emphasis on young people in the OSCE area (Ljubljana 2005), and to teach and disseminate information on obligations under international humanitarian law (Helsinki 1992),

Concerned with recurring serious acts of violence, protracted conflicts and armed conflicts within the OSCE, and violent acts of intolerance in the OSCE area,

the Central and Eastern European Initiative for International Criminal Law and Human Rights (ICLHR Initiative),

Emphasizes that the fight against impunity and prevention of human rights violations go hand-in-hand,

Notes that the most egregious examples of miscarriages of justice, oppressive acts, instances of discrimination and attacks on people and their rights may constitute international crimes under the Rome Statute,

Emphasizes that violations of international criminal law are committed by individuals and that these individuals can be complicit through different modes of liability, such as ordering, inciting or abetting a crime, including as a part of a policy or collective action,

Emphasizes that democratization of expert knowledge about human rights and international criminal and humanitarian law contributes to better compliance with international law and to the preparedness of national authorities to deal with violations, which is also in accordance with the complementarity principle of the Rome Statute,

Emphasizes the role of the provisions of the Rome Statute in education and training about due standards of behavior during armed conflicts and beyond them, and also about victims' rights and due process rights,

Observes that online communication and sharing of knowledge can bring together aspiring students and distinguished experts in international law, including those from Central and Eastern Europe, South Eastern Europe, the Caucasus, and Central Asia, to a common professional platform, which in turn can be instrumental in narrowing the so-called impunity gap,

Commits to contributing to preventing and dealing with violations of human rights in the participating States of the OSCE in the regions of Central and Eastern Europe, South Eastern Europe, the Caucasus and Central Asia through our activities, in particular developing legal expertise among young professionals, and we *present* our activities in this area and *put forward* our recommendations:

Activities

Core International Crimes Database (CICD) Project

ICLHR Initiative implements it in partnership with the Legal Tools Project of the ICC and the Case Matrix Network (www.casematrixnetwork.org).

The CICD will map trial and appeal judgments as well as some pre-trial decisions of the International Criminal Tribunals for the former Yugoslavia, and Rwanda, and the ICC. In each case, the CICD will trace: (a) legal issues detailed on the level of legal requirements of crimes; (b) typology and legal characteristics of evidentiary materials (means of proof) used as incriminating or exonerating evidence; and (c) the outcome of the judgment, including types of aggravating and mitigating circumstances and other factors determining the sentencing.

The work on the CICD is conducted online by contributors from Poland, Kyrgyzstan, the Netherlands, South Korea and Norway. All contributors are law students or recent graduates, working on the project *pro bono* or as part of a university externship course. Their input is controlled by more senior coordinators, including one from ICLHR Initiative.

Legal Tools Database of the ICC (www.legal-tools.org)

Since June 2012, ICLHR Initiative has been engaging university students or recent graduates in the continued development of the Legal Tools Database of the ICC according to the cooperation agreement with the ICC.¹

The Legal Tools Database is the only comprehensive platform that assembles all decisions of the international(ized) tribunals. It is one of the most successful examples of capacity building in the area of international criminal justice (positive complementarity)² and is used globally.

The process of researching and assembling the database is in itself interesting and useful, as the young contributors learn more about the tribunals, their internal bodies and their legal proceedings. The contributors are also engaged in the production of a common good, which will be re-used by professionals worldwide.

Regional co-operation on dissemination of international humanitarian law and human rights

Jointly with other public and non-governmental entities, including local offices of the National Institute of Remembrance and the Polish Red Cross, ICLHR Initiative disseminates knowledge of international humanitarian law and human rights to different audiences in the West-Pomeranian region of Poland. It is predicated upon the belief that such actions can help shape pro-democratic attitudes, and can support academic and professional development of the target groups.

One of the activities is a series of lectures under a common title, "What can lawyers learn from the investigations of the National Remembrance Institute?". The invited speakers represent the Institute's Commission for the Prosecution of Crimes against the Polish Nation.

Legal Review of Unmanned Vehicles

Combat remotely-controlled and fully automated systems potentially bring quality change to the art of land, air and maritime warfare. Yet, the systems may pose significant challenges from the viewpoint of international humanitarian and criminal law and human rights law, and also at policy level. ICLHR Initiative is developing a project focusing on these legal and other aspects.

Recommendations:

To the OSCE:

1. To support or launch initiatives consonant with the approach of positive complementarity under the Rome Statute framework by strengthening participating States' capacities in dealing with core international crimes, in particular by making the requisite knowledge and skills more available to key professionals. This can be effectuated by ODIHR, the Conflict Prevention Centre and field operations by following up on activities under the War Crimes Justice

¹ See Cooperation agreement between the ICLHR Initiative and the International Criminal Court at http://www.legal-tools.org/work-on-the-tools/co-operation-agreements/file/111017_LT_Cooperation_Agreement_CEEI.pdf.

² See also Resolution RC/Res.1 "Complementarity" adopted at the 9th plenary meeting at the Review Conference of the Rome Statute, 8 June 2010.

- Project, such as disseminating case-law and developing ICT tools, and encouraging the exchange of experiences among participating States;
2. To intensify integration of content related to international criminal and humanitarian law within the educational programs, materials, case studies and other resources that the OSCE, in particular through the ODIHR, supports and promotes for use in participating States. This can touch upon such issues as crimes based on discrimination (including genocide and persecution), torture and gender crimes. This can benefit from the experience and expertise of civil society organizations that document violations and run educational initiatives.

To participating States:

1. To promote and support academic and professional courses and training in international criminal and humanitarian law, particularly for future lawyers and the military. States shall make use of modern teaching methods and ICT tools in order to increase the effectiveness of the teaching process.
2. To ensure that judges, prosecutors, investigative judges and similar officers or professionals dealing with violations of international criminal and humanitarian law by the military and other offenders have at their disposal effective tools to investigate and prosecute those violations, such as case management systems and case-law databases, and that they can effectively use them.
3. To provide or make easily accessible to the Legal Tools Project (see www.legal-tools.org) relevant documents, in particular through a centralized collection of relevant case law, and to otherwise support, including financially, local and regional partners of the Legal Tools Project, appreciating that the contribution of these kind of projects to the preservation of peace and to the containment of violent behavior may not be immediate.

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Register file available at the District Court for the capital city of Warsaw, Economic Department XII of the National Court Register (for the Downtown district - "Śródmieście"). National Court Register No. (KRS) 0000391821, tax ID (NIP) 5252524834, statistical No. (REGON) 145867399.