

Summary Presentation of the Project: “The ICC in Turbulent Times”

The conference “The International Criminal Court in Turbulent Times”, organized by Prof Dr Gerhard Werle, Humboldt University Berlin, and Prof Dr Andreas Zimmermann, University of Potsdam, will take place in The Hague on the eve of the 20th anniversary of the adoption of the Rome Statute of the International Criminal Court (ICC) in May 2018. The purpose of the conference is to take stock of the ICC’s activities. It will provide a platform for an academic discourse on what many have deemed a crisis as well as perspectives of the Court’s future development. The conference will analyze and evaluate the current and future challenges the ICC is facing after almost 15 years of operation.

The ICC was established in 1998 despite considerable resistance from many powerful political players such as the United States, the Russian Federation, India, and China. Today, the Court is at a turning point. Several States Parties, particularly African states which represent the largest regional group and which have been among the most dedicated supporters of the ICC’s establishment, have voiced serious criticism. Many of these states accuse the Court and its Prosecutor of political bias for almost exclusively selecting situations on the African continent. In 2016, these developments culminated in three notices of withdrawal from the ICC, namely on the part of Burundi, South Africa, and The Gambia. Burundi’s withdrawal took effect in October 2017. Although South Africa and The Gambia subsequently revoked their withdrawals and the “mass exodus” many had feared did not occur, the possibility of further withdrawals remains. In addition, the Russian Federation – following the United States, Israel, and Sudan – revoked its signature of the Rome Statute in 2016 after the Prosecutor had stated, in the context of the preliminary investigation in Ukraine, that the territory of Crimea is occupied by Russia.

The conference will evaluate these points of criticism. It will also discuss current developments in their historical perspective and offer an academically substantiated prognosis regarding the Court’s future.

The constant calls for an ICC intervention in conflicts such as Syria illustrate that the Court has become an established instrument of conflict resolution. Nevertheless, the ICC has yet to find its role in the system of collective peacekeeping, particularly regarding the tension between peace and justice. These issues will soon attract specific attention in the context of the ICC’s jurisdiction over the crime of aggression, which is expected to be activated in December 2017.

Frequent discussions also revolve around the relationship between the ICC and other institutions, particularly the UN Security Council, as well as third states. Regarding the latter, the situation in Afghanistan is now of particular interest. The Office of the Prosecutor has recently requested judicial authorization to open official investigations, which would cover, among others, US soldiers who allegedly tortured prisoners in detention facilities located in Afghanistan, Poland, Romania, and Lithuania. Other current preliminary examinations may result in cases against Israeli, UK, and Russian citizens. Furthermore, some concepts included

in the Rome Statute and their interpretations by the ICC, for example relating to head of state immunity, have caused continued controversy.

The conference will bring together experts from both academia and practice in the field of international criminal law. The location in The Hague facilitates the participation of representatives of the Court and the Office of the Prosecutor. The conference will thus combine practical experiences and academic insights, enabling the participants to develop concrete policy recommendations for the future development of the ICC. In this respect, the conference aims to provide for a transfer of knowledge.

Considering the subject matter of the conference, an international approach is essential. An emphasis is placed on including academics and practitioners from non-European countries, not least in order to develop a better understanding of the criticism voiced by many African states regarding the Court's practice. On both conference days, high-profile experts will give presentations on specific problems, each followed by in-depth discussions.