

INTERNATIONAL CRIMINAL LAW

– EXAM PERIOD 2019/2020 –

Lecturer:

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Section A: Short Questions (6 out of 20 points | 0.5 points per question)

Justify your answer, where applicable, with up to three sentences.

1. Terrorism falls into the material jurisdiction of the International Criminal Court.

- a. TRUE
- b. FALSE

Please justify your answer.

2. International Courts can adjudicate disputes between two individual persons.

- a. TRUE
- b. FALSE

3. International Criminal Courts have never imposed the capital penalty.

- a. TRUE
- b. FALSE

4. The subject-matter jurisdiction of the Ad Hoc International Criminal Tribunals, i.e. ICTY and ICTR, is identical to the one of the International Criminal Court.

- a. TRUE
- b. FALSE

5. In the event of a change in the law applicable to a given case prior to a final judgment, the law to the person being investigated, prosecuted or convicted shall apply.

- a. more favourable
- b. more recent

Please justify your answer.

6. The Rome Statute prescribes different sanctions for the various forms of commission of and participation to an international crime.

- a. TRUE
- b. FALSE

7. Lapse of time cannot be considered as a ground for excluding criminal responsibility before the ICC.

- a. TRUE
- b. FALSE

8. Contextual elements depend on the will of the offender.

- a. TRUE
- b. FALSE

Please justify your answer.

9. It is possible for the International Criminal Court to establish jurisdiction with regard to States, which are not parties to the Rome Statute.

- a. TRUE
- b. FALSE

Please justify your answer.

10. The protection provided by Article 6 of the Rome Statute covers only stable groups.

- a. TRUE
- b. FALSE

11. The liability of subordinates is excluded in case of the crime of aggression.

- a. TRUE
- b. FALSE

Please justify your answer.

12. There are no possibilities for States to intervene in the proceedings before the International Criminal Court.

- a. TRUE
- b. FALSE

Please justify your answer.

Section B: Open Questions (4 out of 20 points | 2 points per question)

Choose and answer **two** questions.

1. Describe how the function of the International Criminal Court can foster the respect for the rule of law by referring to the perspective of both the Court and its State-Parties.
2. Provide an overview of the achievements of **and** the criticisms against the Ad Hoc International Criminal Tribunals, i.e. the ICTY and the ICTR.
3. Explain the structure of and the philosophy behind Article 21 of the Rome Statute.
4. Delineate the concept 'superior responsibility' in the light of the Rome Statute.

Section C: Exercises (10 out of 20 points | 5 points per exercise)

1. Exercise

F, who possesses a position on the top of the military hierarchy of the state **L** and is a personal friend of the president of this state's government, is suspected of being responsible for committing genocidal acts punishable under both the national law of **L** and the Rome Statute in his own country in the period between September 2010 and October 2012.

- a) Regarding genocidal acts **A** (having taken place on December 15, 2010) and **B** (having taken place on March 23, 2011), investigations against **F** are carried out – albeit rather hesitantly, given his influential position – by the law enforcement agencies of **L**. After three years of scarce actions, the ongoing investigation has not led to any decisive outcome.
- b) Regarding genocidal acts **C** (having taken place on May 15, 2012) and **D** (having taken place on June 30, 2012), **F** is tried before a national court of **L** and sentenced to the minimum possible sanction. To shield **F** during the proceedings, **M**, a member of **F**'s military group and eye-witness of both genocidal acts in question, is prevented from testifying before the court.

Do genocidal acts **A**, **B**, **C**, **D** fall into the jurisdiction of the International Criminal Court?

If yes, in which ways can their investigation be initiated?

While answering, consider that the Rome Statute entered into force on January 1, 2011 in the state **L**.

2. Exercise

The government of the state **H** is pursuing a rigid anti-communist policy by prohibiting, among other things, communist parties, putting their members and sympathizers in special prisons, and preventing them from exercising their political rights in every possible way. **G**, a member of the law enforcement authorities of **H**, killed **V**, a member of the communist party **X**, by viciously hitting his head against the pavement in the course of a communist demonstration. Before starting hitting **V**'s head, **G** remembered that **V** attacked him during another demonstration of his party a month ago. **Y**, a colleague of **G**, is also present and holding the arms of **V** so that the latter cannot resist. Before the demonstration and knowing that he will be in service during it, **Y** consumed a considerable amount of alcohol. As a result, he was not able to control his actions anymore during the demonstration. Two weeks after this incident, **G** arrests the wife of **V** in the context of another demonstration, and rapes her during her transportation to prison, where other members of communist parties are being kept.

Assess the liability of **G** and **Y** according to the provisions of the Rome Statute.