INTERNATIONAL CRIMINAL LAW IN GERMANY


Presentation by Hans-Peter Kaul (Head of the German Delegation to the Preparatory Commission of the International Criminal Court), Andreas Miltzke & Steffen Wirth (Members of the Delegation) during an event hosted by the NGO Coalition for the International Criminal Court (CICC) during the 9th session of the Preparatory Commission for the International Criminal Court at UN Headquarters in New York on 18 April 2002 (the text has been slightly revised and updated).*

I. Introduction ................................................................. 1
II. International Crimes Code ............................................. 23
   1. Drafting Group ......................................................... 33
   2. Principles ............................................................... 34
   3. Jurisdiction .............................................................. 44
   4. General Principles .................................................. 65
   5. The crimes .............................................................. 65
      a. Genocide .............................................................. 66
      b. Crimes against humanity ........................................ 66
      c. War crimes .......................................................... 76
      d. Aggression .......................................................... 76
III. Rome Statute Implementation Act ............................... 77
   1. Principles ............................................................... 77
   2. Surrender ............................................................... 109
   3. Other forms of cooperation ........................................ 114
IV. Progressive implementation ......................................... 114

I. Introduction

The NGO Coalition for the International Criminal Court has kindly provided us with an opportunity to present our draft legislation on international criminal law and I would like to thank them for this in the name of our delegation.

Today I will say a few words on the implementation of international criminal law into the German legal system. This implementation is accomplished in two phases through four legislative projects. The Ratification Act¹ – which enabled Germany to ratify the Rome Statute on 11 December 2000 – and a constitutional amendment² were part of the first phase. And the second phase which is soon to be completed comprises the Rome

* Cf. also Steffen Wirth, International Criminal Law in Germany. Case Law and Legislation, Presentation to the Conference COMBATING INTERNATIONAL CRIMES DOMESTICALLY (3rd Annual War Crimes Conference, Ottawa, 22-23 April 2002) hosted by the Canadian Department of Justice (Crimes against Humanity and War Crimes Section); available at http://www.iuscrim.mpg.de/forsch/onlinepub/Ottawa.pdf.

1  2000 BUNDESGESETZBLATT (BGBl.) TEIL II, at 1393.
2  2000 BGBl. I, at 1633.
Statute Implementation Act\(^3\) – which will allow Germany to cooperate with the International Criminal Court in full accordance with the Statute – and the International Crimes Code\(^4\) – under which Germany will be able to prosecute and try core crimes, so as to avoid a ruling of the ICC that Germany is unable or unwilling to prosecute.

II. International Crimes Code

I shall begin with the latter project, namely the draft International Crimes Code.

Even under German law as it stands today it has been possible to try certain war criminals and persons who committed genocide. Several cases, to date, have resulted in four convictions (Nicola Jorgic, Maksim Sokolovic, Djuradi Kuslic and Novislaw Dja-jic), one judgment of our federal constitutional court, three of our supreme federal court, and some more decisions by lower courts.\(^5\) In the \textit{Tadic} case the ICTY decided to take the case after charges had been brought in Germany. Subsequently Dusko Tadic was surrendered to The Hague. As recently as 15 January 2002 another suspect has been arrested.\(^6\)

However, these procedures also clearly showed what we cannot do: At present both our ability to try war crimes and to try perpetrators for crimes against humanity is seriously limited\(^7\).


\[4\] \textit{Draft of an Act to Introduce the Code of Crimes against International Law}, (Entwurf eines Gesetzes zur Einführung des Völkerstrafgesetzbuches); the Code of Crimes against International Law (hereinafter draft International Crimes Code) is contained in Article 1 of this Act; Articles 2-7 of the Act amend other German laws. The German original of the draft and translations into all six UN languages are available at <http://www.iuscrim.mpg.de/forsch/online_pub.html#legaltext> bottom of page.


\[7\] As to these crimes it may be noted that, as most other jurisdictions, we are capable to try a perpetrator of the crime against humanity of murder for voluntary killing and we could punish the crime against humanity of torture under the provision for inflicting grave bodily harm. However, we could not take into consideration the specific wrong of crimes against humanity, namely that these crimes are committed in the context of a widespread or systematic attack against a civilian population.
Another concern with regard to our existing legislation was that the present provision on universal jurisdiction in our criminal code for genocide and certain other crimes was interpreted in a restrictive way by the judiciary – resulting in difficulties for the prosecutor to bring charges.

1. Drafting Group

In the view of these shortcomings and also – as indicated above – considering the rule of complementarity Germany decided to bring its legislation on core crimes in line with current international law. Therefore, a group of experts including law professors and government officials was formed. This procedure proved very fruitful as it allowed to identify and to address most conceivable problems immediately and in the appropriate context.

2. Principles

I will now go into some details of the draft International Crimes Code and I shall start setting out some principles which served as guidelines for our drafters.

The most important principle was to include only such crimes which already exist under customary international law. Otherwise it would not have been possible to provide for true universal jurisdiction. In this regard we hold that all the crimes under the Statute are also crimes under customary international law - but that the Statute is not comprehensive and that there are some other crimes which also fulfill the customary international law requirement.

Another consideration which largely determines the draft as it is before us now is that - for constitutional reasons - we could not incorporate all the crimes as they are formulated in the Rome Statute. (And naturally we also thought that we could improve a little what we found there). Thus the way chosen by Canada and others – namely to

Consequently we cannot punish such crimes sufficiently severely under our present law. Moreover, with regard to certain crimes our domestic law allows us to prosecute only part of the criminal conduct; for example, the crime against humanity of deportation (Article 7 (1) (d) and (2) (d) of the Rome Statute) and the war crime of forcing a protected person to serve in the forces of a hostile power (Article 8 (2) (a) (v)) can only be punished as coercion or deprivation of liberty. Finally, there are crimes which cannot be prosecuted under German law at all like, for example, the war crime of transferring a states own population into an occupied territory (Article 8 (2) (b) (viii) of the Rome Statute).

8 Universal jurisdiction exists under current German criminal law inter alia for genocide (Section 6 no. 1 German Criminal Code) and where Germany is under a treaty obligation to prosecute; most importantly in the cases of the Geneva Conventions and Additional Protocol I and the Anti Torture Convention (Section 6 no. 9 German Criminal Code). On the development of the doctrine of the legitimizing link – the doctrine restricting the application of universal jurisdiction in Germany – and its criticism cf. Kai Ambos & Steffen Wirth, supra note 5, 778-83.

9 Cf. Explanations on the draft, supra note 4, at A. I.

10 For instance, the draft contains a provision which criminalizes the use of biological or chemical weapons, Section 12 (1) no. 2 of the draft International Crimes Code.

adopt a very short and elegant law which simply provides that the crimes of the Rome Statute are applicable also before national courts – was not open to us. We had to reformulate these crimes, in order to bring them in accordance with our constitutional requirement that a crime must have been clearly determined at the time of the commission of the act.12 I do not think – by the way – that this will affect our ability to prosecute under the principle of complementarity because as has correctly been pointed out a perfect duplication of the Rome Statute is not necessary in this regard.

The last overall characteristic of the draft code is its very existence. That is, we decided to accomplish the implementation of core crimes into German law not by amending our general Criminal Code but to provide for a distinct legislation on its own. This decision was taken for compelling technical reasons13, for the sake of clarity and easy applicability and last but not least for didactic reasons: A separate law is much easier to use in the education of soldiers and others which must observe international criminal law.

3. Jurisdiction

After having set out the overall guiding principles and basic decisions of our draft I shall now turn to the issue which might well turn out to be the most important one. Namely the jurisdiction provided for in the draft.

Germany will take a three level approach to this issue in order to balance the need to respect the sovereignty of foreign states, the need to prevent impunity and also our own interest in flexibility and the careful allocation of judicial resources.

The three levels of our approach to jurisdiction are as follows: In the first level the scope of our jurisdiction over core crimes is regulated – and this is plainly universal jurisdiction, the second level concerns the exercise of this jurisdiction – taking into consideration foreign sovereignty as well our limited resources, and the third level avails itself of the ICC in order to provide additional flexibility for the mutual benefit of the Court and Germany, providing that under very particular circumstances Germany will step back and leave a case for the ICC to decide.

I shall start with the first level, our provision on universal jurisdiction. According to Article 1 of the draft, the International Crimes Code applies to all crimes designated therein “even when the offence was committed abroad and bears no relation to Germany”.

In our opinion such universal jurisdiction is not only permissible under international law but should also be seen as a key requirement of any national implementation of core crimes. States which can exercise universal jurisdiction will be able to take most cases which could be brought before the ICC and are thereby able to effectively support the effort to end impunity as demanded in the preamble of the Rome Statute.

On the second level of our jurisdictional approach we regulate the way in which this universal jurisdiction is exercised. Under the International Crimes Code German

---

12 Article 103 (2) of the Basic Law.
13 It would have been extremely burdensome to review our Criminal Code and to examine in every single case whether the crime already is provided for in the Code or whether amendments are necessary.
prosecutors will not only be enabled to bring cases regardless of where and by whom they were committed, but it is also mandatory for them to do so in most, if not all, relevant cases. Generally, under the International Crimes Code a prosecutor must prosecute a case unless there is no realistic possibility that we will be able to actually arrest the alleged perpetrator. Thus, a case must not only be prosecuted if the suspect is present on German territory, but also if the suspect’s presence is to be expected. Very arguably this means that cases will be taken if there is a substantive chance that the person will be extradited to Germany upon request.

However, it was also considered important that German jurisdiction will not be exercised where there is – on the one hand – no legitimate need to do so and – on the other hand – the use of scarce resources can be avoided. Therefore, our courts will defer to a foreign State's sovereignty if the foreign prosecutor is closer to the crime and is actually prosecuting the case. More specifically: A German prosecutor, in general, will be required not to take a case which is prosecuted “by a state on whose territory the offence was committed, whose national is suspected of its commission or whose national was harmed by the offence”. Thus, you may say that we built our own little complementarity into our new code.

Finally, there is a last legal mechanism regarding the exercise of our jurisdiction. I am speaking of a provision which is not in the draft act which will introduce the International Crimes Code but in the Rome Statute Implementation Act mentioned above. Section 28 of this act provides that under certain circumstances Germany need not prosecute a suspect if – and this is important – the ICC has agreed in advance to step in and take the case itself. This regulation gives us an even greater flexibility but at the same time does not compromise the goal to abolish impunity.

With this my explanations on jurisdiction are completed and I will proceed to the crimes in our draft.

---

14 In German Law there exists a long standing principle according to which a prosecutor must prosecute if there is sufficient evidence (“principle of mandatory prosecution”). The so called “Legalitätsprinzip” (which must not be confused with the principle of legality) is contained in Section 152 (2) of the German Code of Criminal Procedure.

15 Cf. the draft of a new Section 153f. (1) of the German Code of Criminal Procedure, Article 3 no. 5 of the draft International Crimes Code, supra note 4.

16 Cf. the draft of a new Section 153f. (2) of the German Code of Criminal Procedure, Article 3 no. 5 of the draft International Crimes Code, supra note 4.

17 The requirement that the foreign state must actually prosecute is most probably to be interpreted in parallel with Article 17 of the Rome Statute, cf. Explanations on the draft, supra note 4, D. On Article 3 - Amendment to the Code of Criminal Procedure, On Section 153f Subsection (1); Claus Kress, War Crimes Committed in Non-International Armed Conflict and the Emerging System of International Criminal Justice, in 30 ISRAEL YEARBOOK ON HUMAN RIGHTS 103, 170 (2000), proposing to exercise foreign jurisdiction where the state closer to the crime is “neither willing nor genuinely able to prosecute”.

18 Supra note 3.
4. General Principles

About the draft’s approach to general principles of criminal law I will only say that – with very few exceptions – we did not copy the general principles from Part 3 of the Statute. We rather will apply the general principles which are provided for in our general Criminal Code. A careful analysis revealed that for most if not all practical purposes the application of these rules should lead to results very similar to those envisaged under the Statute.

5. The Crimes

As to the crimes of the Draft, they are by and large the same as in the Statute. As mentioned above, in most cases they have been merely reformulated either for greater certainty or to harmonize them with the legislative technique which is usually applied in German criminal law. Therefore, and to save time, I will limit myself here to pointing out some particularities.

a. Genocide

I will start with our implementation of genocide. We have implemented the Genocide Convention in our criminal law since the nineteen fifties and will now do little more than transfer this provision from the Criminal Code into the International Crimes Code. However, we slightly adapted the wording of this provision. And it now explicitly says what already before was the common sense among German lawyers. Namely, that also a single genocidal act, such as a single killing or a single infliction of grave bodily harm constitutes genocide if committed with genocidal intent (this is with the intent to destroy in whole or in part one of the groups named in the Convention). Thus, in our opinion, it is not necessary for the crime of genocide under customary international law that the killing etc. was committed in a larger context of similar acts. (And you may recall that there is a somewhat different wording in the Elements of Crimes for Genocide).

b. Crimes against Humanity

Let me now very shortly turn to the provisions on crimes against humanity.

In this regard all I would like to say is that whereas some provisions, for purposes of greater clarity, have a slightly narrower scope than under the Rome Statute, our draft in some instances is even wider. For persecution, for example, a connection with another inhumane act or another crime is not required as in Article 7 para (1) letter (h).

---

19 Sections 3 and 4 of the draft contain special rules regarding superior orders and command responsibility.
20 Section 2 of the draft International Crimes Code, supra note 4.
21 For a critical review of the approach of German courts to the law of genocide cf. Kai Ambos & Steffen Wirth, supra note 5, 783-796.
23 Cf. the last Element for all alternatives of the actus reus of genocide (Article 6 of the Rome Statute), Finalized Draft Text of the Elements of Crimes, UN Doc. PCNICC/2000/INF/3/Add.2 (6 July 2000); cf. on this matter Kai Ambos & Steffen Wirth, supra note 5, 789-790.
24 Section 7 (1) no. 10 of the draft International Crimes Code, supra note 4.
c. War Crimes
This brings me to the last group of crimes in the draft code (as well as in the Statute) namely war crimes. Here we did not follow the structure of the Statute which organizes these crimes, if I may say so, in a somewhat muddled manner. Rather we tried to reorganize the long list of war crimes in a more systematic way. The most important outcome of this was that, in most cases, there was no longer a need to draw a distinction between international conflict and non-international conflict. Thus, the large majority of the war crimes under our draft apply in both kinds of armed conflicts.

Another important difference to the Statute is that we did not include the so called threshold clause in Article 8 para. (1) of the Statute as under customary international law there clearly is no such requirement.

d. Aggression
Let me finally say a word about aggression. We do have a provision regarding this crime in our (general) Criminal Code; according to this provision a person preparing a war of aggression involving Germany is criminally liable. Given the state of the discussions in the Preparatory Commission we did, at present, not feel fit to go any further than this in the International Crimes Code.

III. Rome Statute Implementation Act
I shall now turn to the second important legislative effort taken in Germany with regard to international criminal law. Namely the Rome Statute Implementation Act which will enable us to fully cooperate with the ICC. The act will regulate the surrender of suspects, as well as, for instance, the taking of evidence and every other way in which Germany may be required to cooperate with the Court. We all know that the matter is very complicated and voluminous and therefore I hope you will forgive me if I limit my explanations to a few remarks on some of the most interesting issues.

1. Principles
I shall begin my short survey setting out the basic principles and guidelines which were applied when drafting the implementation act.

Among these principles there is one of a singular importance; namely that – in general – the ICC has the last say in the interpretation of its own Statute; and that means that the Court determines the obligations of a State party under the cooperation regime and not

---

25 Section 80 of the German Criminal Code; cf. also Article 26 (1) of the Basic Law.

the state itself.\textsuperscript{27} This is regulated in Articles 119 para. (1) and 87 para. (7) of the Rome Statute. Moreover, and even more importantly, it is a \textit{logical} implication of the cooperation regime as such.\textsuperscript{28} The Court could not possibly function, if States were free to judge themselves the scope of their obligations to cooperate with the Court. This is not to say that there are no exceptions to this principle, and I will turn to them in a few minutes. However, exceptions from the general obligation to comply with requests of the Court are limited and must be explicitly mentioned in the Statute. Moreover, even where such exceptions exist, it is – again – up to the Court to interpret the scope of these exceptions.

A very good practical example for the implementation of the principle of the last say of the Court is the German way to deal with immunities under international law. With regard to requests for surrender we simply declare our normal rules on immunities of foreign state officials inadmissible\textsuperscript{29}. Why is that? Because we think that such immunities do not exist at all?

No, it is because it is \textit{up to the Court} to decide on the existence and the scope of any such immunity.\textsuperscript{30} If the Court comes to the conclusion that immunities exist, it will decide not to proceed with the request as is provided in Article 98. Moreover, states may bring their views regarding conceived problems with immunity before the Court at any time.\textsuperscript{31}

There are basically three situations in which States may oppose to cooperate with the ICC.\textsuperscript{32} \textbf{First}, States need not assist the Court in “other types of assistance”\textsuperscript{33} – that is means other than those enumerated in Article 93 (1) (a) - (k) – \textit{if} the measure requested is prohibited under national law.\textsuperscript{34} \textbf{Second} they need not cooperate giving information or

\begin{flushright}
\textsuperscript{27} The same applies with regard to a state’s voluntary acceptance of sentenced persons for purposes of enforcement (Article 105).
\textsuperscript{28} Cf. Steffen Wirth & Jan Harder, \textit{supra} note 26, 145-46, with further references.
\textsuperscript{32} In very particular situations there might arise other exceptions: Cf., e.g., Article 90 regarding competing requests.
\textsuperscript{33} See Article 93(1) (l) of the Rome Statute.
\textsuperscript{34} Article 93 (5) in connection with 93 (1) (l) of the Rome Statute.
\end{flushright}
evidence in a way which would compromise their national security. The third situation regards “fundamental legal principle[s] of general application”. (In my opinion such fundamental principles, most likely, would be the most important civil rights under a State's constitution.) If the assistance requested is not a surrender and the manner of the execution envisioned by the request would violate such a fundamental principle a State may require the Court to enter into consultations to resolve the matter. The Court will modify its request if necessary.

The German approach in dealing with the latter two situations is a selective, and let me emphasize a selective, application of provisions from our law of criminal procedure. Thus, the transmission of security-relevant information or information the transmission of which might infringe on the civil rights of a person is possible if the same information could also have been given to a German court. We think that putting the ICC on the same footing with our courts makes a lot of sense as the judges of the ICC will be chosen very carefully and certainly will be no less trustworthy than our national judges. In any case, if Germany does not feel fit to cooperate with the Court for one of the reasons mentioned above, it will – in accordance with the Statute – enter into consultations with the Court and seek to resolve the matter.

With this I will leave the issue of the principle of the last say of the Court and turn to two other basic characteristics of the implementation act. Both seem to go more to drafting than to the matter – but we’ll see that that’s just how they appear.

One is the fact that the implementation act does not regulate everything but sometimes refers back to the Rome Statute which has been transformed into German law by the Ratification Act. There are at least two advantages in this technique: It reduces the likeliness to “forget” something and it forces judges and officials to look also at the Statute itself (and not only at the implementation act). As a caveat it must be added however, that in most cases the mere referral to the Statute seems not to be sufficient to fulfill a states obligation to implement; that’s why Art. 88 of the Statute obliges states to have specific cooperation legislation in place.

Also the second drafting issue might, at first glance, seem a technicality but has in reality an important clarifying purpose: We will not implement our obligations under the cooperation regime by simply amending our extradition act but we decided to have

---

35 Article 93 (4) of the Rome Statute.
36 Article 93 (3) of the Rome Statute.
38 Section 58 (1) of the draft Rome Statute Implementation Act, supra note 3.
39 Section 58. (1) of the draft Rome Statute Implementation Act, supra note 3.
40 However, this approach has been criticized as being too restrictive, Jörg Meißner, supra note 26, at III 4. b) bb).
41 With regard to “other types of assistance” see Article 93 (3), for security issues see Article 72 (5) and with regard to fundamental principles see Article 93 (3) of the Rome Statute; see also Article 97 of the Statute.
42 Cf., e.g., Section 48 or 68 (3) of the draft, supra note 3.
an act on its own. The clear message of this decision is that surrender of a person to the court is not extradition43 and that cooperation with the Court is not the same as rendering legal assistance to a foreign state. Moreover, a separate act will also give us more flexibility with regard to eventual amendments and, finally, will probably also be easier to digest for judges or other officials, who will have to apply it.

2. Surrender

This concludes my remarks on the principles and guidelines which were observed by the drafters of the implementation act and I will now highlight some of the features with regard to the surrender of persons to the ICC under this draft law.

An arrest warrant and the decision to surrender a person must, under our constitution,44 be made by a Court of law. However, as has been set out above, this Court will not have to decide much more than that there has been a request by the ICC and that the apprehended person is indeed the one specified in this request. In particular German Courts will not examine if there are sufficient reasons to believe that the person has committed a core crime or if the arrest warrant is otherwise in accordance with the law. Any other regulation would not be in accordance with the Statute.

But what about the rights of the suspect? Does that mean that he or she has no legal means to challenge the legality45 of the arrest warrant?

The answer is no: Suspects may have their arrest warrant re-examined on their request by a court of law. However, this court of law is not a national court of the arresting state but the ICC – and, more precisely, the Pre-Trial Chamber (that is the content of rule 117 para. (3) of the Rules of Procedure and Evidence46). I must confess that this right of the arrested person to turn to the ICC is not utterly clear from our draft as it stands now. But this is only because the drafters took it for granted that such a possibility exists and saw no need to explicitly provide for it.47

Another issue relevant for our surrender legislation was the prohibition to extradite German citizens to foreign states which is regulated in Article 16 of the German constitution. We took a pretty uncreative approach to this problem and simply changed this provision. However, it is important to understand that most people involved in the process in Germany as well as most academics48 did not consider this necessary. The reason is that there is a fundamental difference between surrender and extradition because the ICC is not a foreign state but a judicial organ which meets the highest

44 Cf. Article 103 (4) of the Basic Law.
45 The issue of the legality of the warrant itself must not be confused with the possibility of a national court on application of the person to decide – giving full consideration to any recommendations of the ICC – on an interim release of the person (Article 59 (3) - (6) of the Rome Statute).
47 Meanwhile the draft has been amended and the respective right of the accused is explicitly mentioned in Section 14 (2) sentence 3 of the Rome Statute Implementation Act, supra note 3.
48 Cf., e.g., Frank Jarasch & Claus Kreß, supra note 2940, 99-104.
international standards of fair trial. Indeed, these reasons enabled, for instance, Bulgaria and Switzerland to ratify without a constitutional amendment.

So why then did we change our constitution all the same?

The first reason was that we wanted to amend our constitution anyway to enable the extradition of Germans to other countries of the European Community; and the second reason was that some academic writers held that an amendment was necessary and we decided to stay on the save side.

3. Other Forms of Cooperation

With regard to forms of cooperation other than surrender I can be very short. We simply empowered our courts and other authorities to collect evidence, conduct searches and seizures, question witnesses and undertake other measures in accordance with any request that may come from the ICC. I already mentioned that for matters of security sensitive issues and the so called fundamental legal principles (and that is fundamental civil rights) we put the ICC on the same footing as German courts.

IV. Progressive Implementation

Before I finish let me turn away from the provisions in our draft which merely implement what we must do under the Statute and present to you a few issues we are especially proud of. I am speaking of the many regulations in our draft which go further than is required by the Statute and which – hopefully – may help the Court to work more efficiently and to render its procedures a little smoother.

Among these provisions are the following:

- First; we can provide several kinds of assistance to the ICC before the Court even asks for such assistance. Thus we can arrest persons, hand over evidence, documents, etc. as well as conduct seizures without the need of a formal request from the Court.
- Second; under certain circumstances even normal citizens (and not only state authorities) are empowered by law to provisionally arrest perpetrators of core crimes.
- Third; we will be able to enforce the personal appearance of a person (and that means a witness) before the ICC with the same means that can be applied to

---

49 Statement of the Representative of Bulgaria on 8 April 2002 during the opening plenary of the 9th session of the Preparatory Commission for the ICC at UN Headquarters in New York.

50 Presentation of Dr. Manuel Sager (Switzerland) to the 3rd annual conference “Combating War Crimes Domestically” of the Crimes Against Humanity and War Crimes Section of the Department of Justice, Canada (Ottawa, 22-23 April 2002).

51 Section 11 (2) of the draft Rome Statute Implementation Act, supra note 3.

52 Section 30 (1) of the draft Rome Statute Implementation Act, supra note 3.

53 Section 13 (1) Sentence 2 of the draft Rome Statute Implementation Act, supra note 3, in connection with Section 127 of the Code of Criminal Procedure.
enforce the appearance of a person before a German court. And what is more: We even grant that information provided by a witness to the ICC cannot be used in a trial before our courts if the ICC has given an assurance that such information will not be used against the witness. The same holds true for recordings taken by the ICC, while being present, for instance, during the questioning of a witness by German authorities.

- Fourth; upon request of the ICC we can freeze all assets of a person in order to deny this person the necessary means to flee from justice. (This is a lesson learned from cooperation with the ICTY).

- Fifth; we can give spontaneous information to the ICC, that is information which the Court did not ask for, but which we think might be useful for its work.

- Sixth; we do allow the ICC to sit in Germany.

- Seventh; we will accept sentenced persons for purposes of enforcement. And it is needless to say, that the ICC retains full control over all sentenced persons and any matter concerning their release.

- And last but not least; under the act we will be able to waive any claim for reimbursement of expenses incurred for measures of cooperation.

With this I would like to finish and to thank the Coalition again.

We are convinced that this kind of protracted exchange of views will finally help to achieve the strong and effective implementation of international criminal law in our respective legal orders that we all want to accomplish.

Thank you for your attention.

---

54 Section 53 (1) of the draft Rome Statute Implementation Act, supra note 3.
55 Section 30 (1) of the draft Rome Statute Implementation Act, supra note 3.
56 Section 60 Sentence 4 of the draft Rome Statute Implementation Act, supra note 3.
57 Section 52 (4) of the draft Rome Statute Implementation Act, supra note 3.
58 Sections 4 and 58 of the draft Rome Statute Implementation Act, supra note 3.
59 Section 61 of the draft Rome Statute Implementation Act, supra note 3.
60 Section 41 et seq. of the draft Rome Statute Implementation Act, supra note 3.
61 Section 71 of the draft Rome Statute Implementation Act, supra note 3.